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REPORT

ON THE

POLITICAL ADMINISTRATION

OF THE

TERRITORIES WITHIN

THE

CENTRAL INDIA AGENCY

For the Year 1873-74.

By MAJOR-GENERAL H. D. DALY, C.B.,
AGENT TO THE GOVERNOR-GENERAL FOR CENTRAL INDIA.

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REPORT

ON THE

POLITICAL ADMINISTRATION

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For 1873-74.

CHAPTER I.

REMARKS BY THE AGENT TO THE GOVERNOR-GENERAL

THE last Report of the States in Central India under the Political Administration of the Agent to the Governor-General was submitted by Colonel Watson, V C, C B, who officiated as Agent from April 1873 till the end of February 1874 during my absence from India

Colonel Watson conducted the duties of the office with tact and judgment During his tenure order was undisturbed, and the friendly relations existing between the British Government and the Chiefs of Central India, great and small, in number 71, were pleasantly maintained

Mahrattas	4
Mahomedans	8
Boondelias	17
Brahmins	6
Rajpoots	32
Bheels &c	4
Total	71
	—

2 Former Reports have described generally the area, population, and revenue of Central India The square mileage, though not accurately known, is probably not less than 90,000, somewhat smaller than that of the Punjab, but exceed that of Bombay and Madras together by the side with an be formed of the vastness of the territory ruled by the feudatories of the Crown No trustworthy Census can be quoted, but the population may be computed over eight millions It is difficult to estimate the revenue of the small Chiefships That of Sindia's is about one million sterling, Holkar, Bhopal, and Rewah together collect another million, so that Central India may yield to its Chiefs $3\frac{1}{2}$ millions yearly.

Malwa will derive from a railway, proffered three-fourth of a million on similar terms for the extension from Indore to Neemuch with a link to Oojein, in all 164 miles. With the exception of the first 22 miles out of Indore belonging to Holkar, the main portion of the line will course through Sindia's domains.

14. The services of the Dewan of Gwalior, Gunput Rao Khurkey, in connection with railway matters merit prominent notice. The Maharaja desired that assistance should be rendered to the Government officers, and this desire has been most faithfully carried out. Whether in the loan negotiations or field work of the Engineers, the Dewan has been prompt to help. The absence of obstruction is a great point, but cordial support, and no exactions, mean substantial things which lead to progress, and call for public recognition.

15. When the Holkar State Railway from Khundwah to Indore, 79 miles, was begun in 1870, the late Viceroy contemplated its completion in four years. The foundation of Nerbudda Bridge was laid by Lord Northbrook in the presence of Maharaja Holkar and many of the Chiefs of Central India on 3rd December 1872. The contractors of the bridge and line failed to fulfil their engagements: they encountered difficulties at the outset with the Indore authorities respecting stone, sand, fuel, and materials of all sorts, thus much delay was occasioned. It is doubtful whether the masonry of the bridge will be ready to receive the girders before November 1875, so that probably 1876 will hardly see the Holkar line completed. At present the 37 miles from Khundwah to the Nerbudda are open for traffic. After the rains an extension to the Choral, 20 miles, at the foot of the Vindhya, will be in working order. The Choral is within 18 miles of Mhow, which will thus cease to be isolated, and the danger to health and life attendant on marching through the malarious jungles below the ghâts will be removed.

16. The Neemuch State Railway, the surveys of which were begun in February 1871, has made little visible progress. The earth-work to Rutlam, 70 miles, and of the link to Oojein is made. Of masonry there is little to chronicle. Oojein, 37 miles from Indore, will be an important station. Sindia's opium, 11 or 12,000 chests, is weighed there, and the traffic of his territory and that of other States to the north and west will gather at Oojein.

17. The gradual expansion of the opium trade, the wealth of Malwa, which has attended the improvement in communications will be spoken of elsewhere. The trade which used to be fitful and speculative owing to the impassibility of transport in the rains is now comparatively steadied by the trunk roads constructed by the Government of India, and the approach of the rail.

On political and financial grounds the Mhow, Indore, and Oojein link should be opened without waiting for the Nerbudda bridge and the ghâts completion. In Malwa the poppy is cultivated almost to the exclusion of cereals, the people depend for food mainly on imports. So completely are cities on the black soil isolated during the rains, with rivers and streams unbridged, that an interval of 100 miles marks the difference between those who bask in abundance, and those who are straitened to starvation. Wheat has often fallen to six seers the rupee

in Malwa, and its normal price varies between 10 and 15 seers. Whereas at Bhilsa and the Barce Pergunnah of Bhopal, granaries of Central India, 20 seers is a minimum, and 40 seers not unknown.

18 Railways in Native States and specially through Malwa will have a marvellous effect on Chiefs and people. The people will learn the value of labor, and rulers who now look upon their subjects in the light of a patrimony will learn that the true source of the wealth they seek is in the prosperous industry of their people.

19 *Opium in Malwa*—A belief is prevalent that the opium revenue is something very precarious, a sort of will o'-the-wisp not to be handled, not to be relied upon. A review of its course will show how fallacious this idea is.

Variations there are from year to year due to the peculiarities of the season, but side by side with the vine, hop, and indigo, this variation is slight.

Before the repeal of the Corn Laws in England the price of bread was much more dependent on the weather than opium is in Malwa. Sir John Malcolm remarked 50 years ago that though crops in Malwa have been diminished by too much or too little rain, that though they have suffered from biting winds and frost, the climate is so mild and the soil so rich, with water at command from the many rivers and streams, that there is no record of a complete failure, pressure for food, except from the consequences of war and plunder, was unknown.

20 Since 1863-64 the export duty per chest fixed by the Government of India has not varied, consequently the Returns during that period will afford complete information on the fluctuations of the trade.

YEAR	ESTIMATE		ACTUAL	
	Chests	Amount Rs.	Chests.	Amount Rs.
1864-65	38 000	2 28 00 000	32 032	1 9 ² 19 ⁰⁰ 00
1865-66	35 000	2 10 00 000	32 447	1 91 68 ⁰⁰ 00
1866-67	35 000	2 10 00 000	31 595	1 91 97 000
1867-68	34,000	2 04 00 000	36 101	2 16 60 600
1868-69	33 000	1 98 00 000	29 787	1 78 7 ⁰⁰ 00
1869-70	31 000	1 86 00 000	35 8 ⁰⁸	2 14 96 800
1870-71	30 000	1 80 00 000	37 608	2 25 64 800
1871-72	32 000	1 9 ⁰⁰ 00 000	37 591	2 25 54 600
1872-73	34,000	2 04,00 000	42 688	2 56,12 800
1873-74	35 000	2 10 00 000	42 112	2 52 67 200
Total	3 37 000	20 22 00 000	3 58,189	21 49 13 400

21 It shows that this trade, like every other, depends for success on the facilities it enjoys. Within the last 30 years the exports have trebled. In 1840 there was but one place in Malwa to which the merchant could bring his opium for weighment if he desired to export it, there was no made road to Bombay, and thence to China sailing ships from time to time were irregular in departure. Since 1850 the exports have doubled. At this period things had improved, roads were growing

towards Bombay, monthly steamers had taken the place of the China clippers, and other facilities in a like manner had opened. During the last ten years progress in communications has been marked, the Great Indian Peninsula Railway, step by step, has made its way, and now passes within 80 miles of Indore; the telegraph wire is at every business mart in Malwa, bringing the cultivators knowledge, which 20 years ago was confined to merchants and exporters. Steam-ships sail from Bombay on fixed dates throughout the year. These are the things which have led to the development, the steady development, of the opium trade on which Chiefs and people in Malwa depend for prosperity.

22. In comparing estimates with actuals, it is well to bear in mind that the Budget of the Government of India necessitates the preparation of the estimate in January, at a time when the poppy from the pod of which the opium is to be extracted is scarcely in flower. So far it is a leap in the dark, taken on the average of the preceding five years, raised or lowered according to the promises of the season; yet only once within the last seven years have the receipts been below the estimate.

23. The estimated revenue of the last ten years was about 20½ millions sterling. The actual fell little short of 21½ millions. This has a smack of substance, and some notion of the soundness of the trade may be formed from the fact that the last five years have exceeded in prosperity any previous five years on record.

Year.	Rate per Dhurree* best quality.	Year.	Rate per Dhurree best quality.
	<i>Rs.</i>		<i>Rs.</i>
1850-51	44	1862-63	70
1851-52	46	1863-64	64
1852-53	39	1864-65	60
1853-54	34	1865-66	90
1854-55	40	1866-67	66
1855-56	45	1867-68	62
1856-57	30	1868-69	57
1857-58	56	1869-70	57
1858-59	59	1870-71	59
1859-60	56	1871-72	57
1860-61	62	1872-73	55
1861-62	55	1873-74	64

* 10 lbs.

24. A Statement in the margin shows the market price of opium fit for export since 1850-51. The exceptional price in 1865-66 was caused by hail-storms, which destroyed and blighted the crops in one part of the province.

This year the price is lower than it has been for 17 years, due to the abundance and excellence of the produce of last season.

Prices have been so steadily falling for some years that the great

merchants have lost heavily, and, though they recoup themselves to a considerable extent in the exchange, many a big firm has been shaken. Time bargains occupy as much attention in Malwa as *bona fide* trade: it is calculated that these transactions reach two millions sterling in the year.

25. The flavor and delicacy of opium excite as much attention in the East, as those qualities in the wines of France and Spain in Europe. A connoisseur will tell at a glance whether the dark juice in its earthen vessel is the produce of the poppy of Mundisore or Rutlam. The flavor of the poppy juice, like that of the grape, depend on the soil. Its manufacture into cakes or gotees for packing takes place at a few cities which are more or less famous on that account. The art of manipulating this process is confined to a small class.

It is only opium of the best quality which is fit for the China market. The high duty prevents the export of an inferior drug, and so preserves the prestige of Malwa in the market. China takes the new

and fresh opium, which is used in a liquid form. In India, amongst the wealthy, old opium is valued as much as old port at home, and for the same qualities, mellowness and softness. Opium of a good season and vintage 20 or 25 years old commands a fabulous price, and is only to be had in the houses of the rich.

Thus many a beegah of the best land is sublet at prices from Rupees 40 to 60. Malcolm estimated the land tax or rental of opium lands in Malwa in his day at Rupees 5,20,000. It is now treble that sum.

26 Dinkur Rao's 20 years' settlement of Sindia's districts yielding about 40 lakhs a year has made the ryots comfortable. Holkar's lands, with the exception of one pergunnah, are inferior in quality to those of Sindia.

The land tax of Malwa is unequalled in India, and it is felt that this mainly depends upon the continuance of the opium trade. However this may be, the resources of Malwa are but very partially developed. The people have never recovered from the anarchy which preceded British supremacy. Cities which were once populous and prosperous are still little more than hamlets, and much land is waste. The introduction of railways now at hand will, in a few years, work greater changes than those which have been chronicled since Malcolm's time.

27 The only change of importance amongst Political Officers which has marked the past year has occurred at Gwalior and Bhopal.

Major Impey, who had officiated as Political Agent at Gwalior since January 1873, was compelled by shattered health to leave India for a time last February. This officer during his tenure of office had won the confidence and regard of Maharaja Sindia, and his departure was much lamented.

Lieutenant-Colonel W. Osborne, C.B., Political Agent of Bhopal, has been appointed to officiate at Gwalior, he being succeeded at Bhopal by Mr. Barstow, C.S.

CHAPTER II

REPORT ON THE INDORE STATE BY THE OFFICIATING 1ST ASSISTANT AGENT, GOVERNOR-GENERAL, FOR CENTRAL INDIA

1 *Indore*—Sir Mahdwa Rao, in the accompanying statement of the condition of the Indore State and the mode of administration adopted since his assumption of the duties of Minister, has left unnoticed many points which still call for reform, and writes as if institutions which are as yet in their infancy had attained strength and produced the good, which is at present rather looked for than apparent.

2 The slight addition to the *personnel* of the Durbar Office can have little material effect on the condition of the ryots in the 45 pergunnahs of the State which are comprised in the charges of the Soobahs of Khurgone, Rampoor, and Nimar.

Sir Mahdava Rao has divided the administration into 10 departments, but remarks that in some instances more than one department is under one Minister.

3. The appointment of two Judges who constitute the Sudder Court at Indore is prominently noticed; as also is the institution of three Subordinate Zillah Courts at Indore, Mundlairsur, and Rampoor.

Reforms in the administration of justice were always greatly required in the Indore State, and this want has been frequently noticed in the Annual Reports of the Agency for past years, so that any steps taken towards effecting that which is so much described must be a matter of improvement, but it is difficult to see how the institutions of Courts of Law will benefit the poorer classes and the masses of ryots and zemindars which comprise the greater portion of the State population. Individuals empowered with legal authority in three isolated positions in the whole State will hardly be able to cope with the wants of a people inhabiting all the villages contained in 45 large districts.

4. Of the prosperity of the State finances there can be no question. The revenue which Colonel Meade in his Report for 1866-67 estimated at upwards of 32 lakhs is shown by Sir Mahdava Rao to have been during the past year upwards of 49 lakhs, exclusive of receipts from khasgee estates and other private sources. The increase is mainly due to the extension of opium cultivation in Malwa, and to consequent increased assessment. Land which under cereal crops pays a rental of from Rupees 2 to Rupees 3 per beegah brings from Rupees 14 to Rupees 32 under poppy, and Maharaja Holkar shares with all the Chiefs of Malwa the increasing prosperity brought by the continuing demand for opium, and the facilities given to the trade by the establishment of scales at Indore, Oojein, and Dhar. The assessment of land in Indore territory is proverbially high, but, although the cultivators are pressed to the uttermost and every acre of land turned to the greatest possible advantage, it is noteworthy that the cultivators are in this respect oppressed and harassed by no middlemen. Their engagements are with the Maharaja alone.

The severity of their terms necessitates industry and constant attention, so that while more is required of them, they have so improved the ground they hold as to procure more from it in some proportion to the assessment levied.

5. There is no regular method by which lands are assessed. During the past year remissions to the amount of upwards of one lakh were made in different pergunnahs. As an example of the sudden rise in rents to which the districts of Indore are liable, according as their condition is considered sufficiently improved to admit of higher assessment, the case of the Pergunnah of Yarana may be taken.

In Sumbut 1928 * the village lands of this district were re-assessed,

* A.D. 1871-72. and the average rate per beegah, which previous to 1871 had been Rupees 10 annas 4, was at one spring raised to Rupees 19 annas 8.

In some villages the increase exceeded 100 per cent., but the average for the whole pergunnah shows an increase of 90.2 per cent. obtained by the revised assessment.

6 Sir Mahdava Rao notes that there is less crime in Indore than in other States in Central India. Perhaps this may be so, but trustworthy statistics cannot well be procured. On the other hand, it has been said that the technicalities of the lately instituted Courts have been the means of multiplying the chances of escape of criminals, and that under this feeling crime has been more frequent of late, at any rate in the city of Indore.

7 Public works in the State are still sadly deficient, though it is pleasant to notice real reforms in the city of Indore itself, where drainage has received attention, and roads have been made. The Minister mentions proposals made for a jail—this is an institution which has long been wanted, though it still seems to be one of the things hoped for.

Roads are in contemplation and are certainly much required. The Bombay and Agra trunk road, which runs through its best districts, as well as by the mail route, but with these exceptions communication in Holkar's territory is at present absolutely nil.

The appointment of Mr. Carey as Durbar Engineer will, it is hoped, prove of advantage in this respect.

With the rail, now approaching completion, between Khundwah and Indore, and the extension to Neemuch, all that is required to develop the resources of the country, rich in grain, opium, and cotton, are feeder roads to the rail through outlying districts.

8 The Indore Cotton Mills under the able superintendence of Mr. Broome are now in full work and promise well.

At present there are 20 single carding engines, 10,272 spindles, 5280 and 224 looms at work. During the year (ending 5th June) the outturn was 34,240 pieces of cloth, to this a considerable increase is expected during the current year, additional machinery being expected, which will put looms in motion now standing idle. Two hundred pieces of cloth are now turned out daily, and when all the machinery is working the production is expected to amount to 350 to 400 pieces a day.

The cloth made is what is styled longcloth and T cloth, some dhotee cloth is also made. The quality of the manufacture bears very favorable comparison with the cloth made in Bombay. Two qualities are made, for the lowest the prices obtained vary from 9½ annas to 10½ annas per lb., and for the first quality from 10½ annas to 11½ annas.

The demand for cloth made in the mill is very great. The Superintendent has already sold largely in advance of the production, and has orders for more cloth than the mills can possibly produce during the current year.

The cotton now used is chiefly grown in Malwa and Nimar. At first the supply from Indore territory was small, and Mr. Broome procured the raw material from Candeish. But the last season's crop of Malwa cotton was very good, and a large proportion of it has been used with great success. It is hoped that the supply from Candeish will soon be dispensed with.

The total amount expended on the mills from the commencement of the building up to the present time is estimated as between 9½ and 10 lakhs, but this includes nearly 50 per cent. thrown away from want of management.

Notwithstanding that the original expenditure was so large, and the outturn as yet far less than it will shortly prove, 5 per cent. profit has already been secured on the outlay.

Everything about the cotton mills is in first rate order, the working is regularly and efficiently carried on throughout the year, and in every way the mills have proved a most successful undertaking.

The greatest praise is due to the Superintendent, Mr. Broome, who had charge of the work from the commencement, and to whose energy and perseverance the satisfactory results shown are due.

9. During the year His Highness Maharaja Holkar has made frequent excursions into the districts near Indore, examining village accounts, reviewing assessments, allowing remissions where collections failed, and stimulating the progress of irrigation and cultivation generally.

10. In November last the Maharaja, accompanied by his sons, the the Minister, and a large following, went on a pilgrimage to the Deccan. The Camp of Exercise at Chinchwad, Bombay, and Poona were all visited. His Highness was accompanied throughout his journey by Captain Blowers, Deputy Bheel Agent, and by an officer specially deputed by the Government of Bombay for this duty. His Highness was much pleased with all he saw, and gratified by the attention he everywhere received from the local authorities of the Bombay Government. His Excellency Sir Philip Wodehouse was absent during the greater portion of His Highness' visit, but the Maharaja had the honor of meeting His Excellency the Governor before he left Bombay.

His Highness returned to Indore on the 15th February, having been absent nearly three months.

INDORE.

The following description of the administration of the Indore State has been obtained from Sir T. Mahdava Rao, K.C.S.I., Minister to His Highness Maharaja Holkar.

Officers of Administration.—Sir T. Mahdava Rao, as His Highness' Minister, presides over the Durbar Office. He is assisted by a number of Ministers, among whom the work is distributed. These are respectively at the head of the following departments or branches of the Durbar Office :—

1. Moolkee or revenue, including accounts.
2. Police, judicial and jails.
3. English Office.
4. Public Works.
5. Military.
6. Foreign affairs.
7. Public Instruction.
8. Sayer or Customs and Abkaree.
9. Post Office.
10. Miscellaneous.

[*Note.*—In some instances, more than one department is under one Minister.]

All communications relative to public affairs are, as a general rule, to which the exceptions are diminishing, addressed to the Durbar. They are disposed by the heads of the several departments.

System of Administration—Replies are prepared and brought to Sir Mahdava Rao for his signature, they being previously attested by the particular Minister to whose department they appertain. Important matters are brought up for consideration and special instructions. Where any matters of special gravity or difficulty requires to be dealt with, all or most of the Ministers are invited to discuss and deliberate. Thus a principle of individual and collective responsibility is maintained.

Routine matters go on without references to His Highness the Maharaja. But where any additional expenditure is involved, or extraordinary matters in relation to the British Agency, or matters of capital or life punishments are concerned, references are made to His Highness, and his commands taken. No important changes in the existing system can be carried out without special sanction from His Highness.

His Highness specially retains to himself the department of land revenue, in which His Highness takes a deep interest. As a rule, His Highness calls for any papers he may like in any department and passes his orders.

Sir Mahdava Rao has at all times free access to His Highness, and so far there is every facility afforded by His Highness for representations and discussions.

Sir Mahdava Rao carries on all important correspondence in English direct with the Agency Office.

JUDICIAL

A sketch of the administration has been briefly given above. Besides the departments therein mentioned, a Sudder or Central Court has been established to perform appellate work of the highest orders, and to control the whole range of civil and criminal work below. This Sudder Court is at the capital, and is presided over by two excellent Judges who possess the advantages of a liberal English education and of special knowledge of the science and practice of law. The salary of the first Judge is Rupees 800, and that of the second, Rupees 500 per mensem.

There have also been established three Zillah Courts—one at Indore, another at Mundlaur, and the last at Rampoor. These Courts are each presided over by one Judge. The *personnel* of these Courts is of the same character as that of the Sudder Court.

An additional Judge has been temporarily appointed in connection with the Indore Zillah Court in view to clear off arrears of cases.

His Highness has sanctioned the appointment of one more Judge, who is to do work coming from His Highness' Nimaur possessions, and, when not fully occupied, to assist where assistance may be required.

This appointment will be made as soon as a competent and qualified person is found.

Three Soobahs have been appointed, namely, one for the Indore Zillah, another for that of Rampoor, and the last for Nimar.

The number of Ameens and their Assistants, called Vehiwatdars, has been increased in reference to the wants of the country.

The powers of the Courts of the Soobahs, of the Ameens, and Vehiwatdars and other officers have been determined and laid down, and a course of appeals within moderate limits defined.

Altogether, something like organization has been established, and the work and responsibility of each functionary made clear. The different parts of the machinery can now move without the impediments arising from excessive centralization.

POST OFFICE.

A special internal postal service has been organized for public and private correspondence. It is supervised by a special head officer possessing experience in the British postal system.

PUBLIC WORKS.

A special Civil Engineer has been appointed with a staff of subordinates. We have in Mr. J. Carey an officer of tact, judgment, zeal, and experience, just such as required. Considerable outlay has been incurred in the improvement of the large city of Indore. Most of its roads have been made and metalled, and the drainage provided for. The principal streets are being very well lighted. The water supply has been better cared for. Important roads to connect the capital with the producing districts around are in progress.

POLICE.

Special heads of Police have been appointed for each zillah to make better arrangements for the apprehension of offenders, &c.

Jails.—Medical men have been appointed to take better care of the health of the inmates of jails.

Medical.—His Highness has sanctioned funds for the extension of vaccination, and their appropriation is simply delayed owing to the monsoon, which, according to professional advice, is not favorable to vaccinations.

A well trained Native Midwife has been obtained from Bombay and employed in the city. Her services are pretty freely availed of, and the community express appreciation of this advantage. I am glad to add that this arrangement has already been imitated in one or two neighbouring Native States, if I am correctly informed.

Revenue.—The accounts of the revenue of the year just passed are not yet ready; therefore a Statement of the revenue of the previous year is here given, namely, for the Fuslee 1282.

Sources of revenue	Amount collected in round numbers	REMARKS
	<i>Halce Rs</i>	
Land	33 07 000	The receipts from Khasgee Estates and from such other private sources are not included in this
Customs &c	6 10 000	
Abkaree	1 19 000	
Tributes	1 58 000	
Stamps	50 000	
Pefunds &c	1 17 000	The Sirdeshmookhee cess is also excluded from land revenue
Fines &c	76 000	
Mint	26 000	
Railway interests	2 33 000	* In the following year this item is expected to show satisfactory increase
Cotton Mill	* 22 000	
Miscellaneous	2 04 000	
Total	49 22 000	

The Furnaves (Account) Department vouches for the general accuracy of the foregoing Statement

The following Statement shows the expenditure also for the Fuslee 1282, as submitted by the Furnaves (Account) Department

ITEMS	Actual expenditure	REMARKS
	<i>Halce Rs</i>	
Palace	6 75 000 (A)	(A) Includes the allowances of His Highness relatives &c
Civil establishments	9 89 000 (B)	(B) Includes pay &c to hereditary officers
Police &c	1 34 000 (C)	(C) Includes allowances paid to Bhoomiahs Thakoors &c
Courts	20 000 (D)	(D) This expenditure represents the old state of things The following years expenditure will include the cost of the Courts newly established
Jails	28 000	(E) The following years expenditure will show the increased outlays under the Engineer Mr Carey
Army	12 28 000	
Education	27 000	
Public Works	2 31 000 (E)	(E) The following years expenditure will show a considerable increase
Hospitals	12 000	(F) The following years expenditure will show a considerable increase
Post	4 000 (F)	
Survey	35 000 (G)	(G) The following years expenditure will show a considerable reduction
Pensions	8 000	
Religious	31 000	
Charitable	72 000	(H) The following year will show considerable receipts from this source
Railway	11 04 000	
Capitalization of Contingent	2 39 000	
Cotton Mill	1 42 000 (H)	(I) It seems the system is to refund the demands remitted
Miscellaneous	1 31 000	
Remissions	2,03,000 (I)	
Total	53 12 000	

CENTRAL INDIA AGENCY REPORT.

The expenditure thus exceeds the receipts principally owing to the extraordinary payments on account of the Railway and Contingent capitalization. The previous cash balances have met the deficit.

The allotments of different objects need not perhaps be now given, because in reference to administrative changes made in the following * year, the scale has undergone a good deal of alteration.

Customs.—The whole subject of customs is receiving consideration. It being, from its origin, a complicated system, it is not easy to describe it here in detail, nor are all details in my possession as yet. It may, however, be briefly described as one which regards each pergunnah as an independent province in which export and import duties and tolls may be levied. The whole system presents great scope for improvement or reconstruction in reference to modern principles of taxation. The subject will be comprehensively treated of in our own Administration Report, which it may be possible to enter upon before very long.

The revenue from this source has been given already.

Agricultural products.—The following are the chief agricultural products of these territories, namely—

Opium.
Wheat.
Jowaree.
Sugar-cane.

Sunn (flax or hemp.)

Gram.
Indian corn.
Cotton.
Ala.

Land assessment.—The assessment on land does not vary in respect of the crop raised. This is as it should be. It varies in reference to the nature of soil.

The village average rate per acre of irrigated land varies in the Narmadapur Zillah from say Rupees 14 to 32 an acre being taken equal to 10 bighas.

For irrigated land in the Nimar Zillah, the village average rate is from say Rupees 7 to 9 per acre.

For such land in the Nimawar Zillah, the village average rate is Rupees 10 per acre.

For dry land, the average village rate may be from Rupees 2 to 3 per acre. It is to be noted that these rates are averages. The highest individual cases may therefore range higher, and the lowest range below the average.

MILITARY.

Number of effective guns is 18.

Artillery, inclusive of paid camp followers, is nearly 530 men.

Cavalry of all sorts numbers about 3,100.

Infantry of all sorts numbers about 3,100.

A considerable portion of the force is distributed among the districts as akin to police.

City and other regular police number about 1,200, but the peons, &c., are included under the head of Civil Establishment in the financial Statement.

Crime—Arrangements have been made for the better reporting of crime, though many of our jaghiredars or enamdars are not yet fully sensible of the duty of reporting crimes. Those especially who are to any extent under British guarantee fancy that this circumstance absolves them from the duty!

The reports received, however, are not yet sufficiently regular to admit of the immediate preparation of reliable and comprehensive statements, so this subject will also be reserved for our Administration Report.

It seems certain, however, that there is less crime in our territories than in many others in Central India. And the steady administration of penal justice which has been inaugurated is sure to make a very favorable impression on crime.

Since the present administration began (from the beginning of 1873) there have been no mail robberies except one mere attempt.

In the Rampoora Zillah crimes of violence appearing to be frequent, special arrangements have been made for their repression, and perceptible success seems to have attended the efforts of Mr Gunesh Shastree, the special officer in charge of that Zillah.

Crime is very moderate in the Nimar Zillah, and the same may be predicated of the Indore Zillah, except at the borders.

The Zillah of Mehidpoor scarcely calls for particular remark in this respect.

In the Nimawar Zillah crime is more rife than ought to be the case, owing to geographical favoring circumstances.

Two murders have been capitally punished in the whole territory, and another with life imprisonment.

The Indore Zillah Court alone has convicted six prisoners who had committed dacoity, and sentenced them each to seven years' rigorous imprisonment, and it has convicted seven prisoners charged with robbery, and awarded them sentences of imprisonment for varying periods.

Jail—A large new central jail with reference to modern ideas has been planned and estimated for by our Chief Engineer, and awaits His Highness' sanction.

Meanwhile, the existing primitive jail buildings have been considerably improved, specially in matters of ventilation. Sanitary conditions are better enforced. Better medical aid is afforded.

There are two central jails for His Highness' territories, viz., one at Indore, and the other at Mundlaur. The first contains about 330, and the second about 150 prisoners, total about 480. Of this about 40 are females.

EDUCATION

The following is a statement showing the annual expenditure of the Educational Department for Fuslee 1283. The number of schools

The expenditure thus exceeds the receipts principally owing to the extraordinary payments on account of the Railway and Contingent capitalization. The previous cash balances have met the deficit.

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CENTRAL INDIA AGENCY REPORT.

in the State, the numerical strength of students in each, and their average daily attendance:—

*Statement of annual expenditure of the Educational Department for
Fuslee 1283.*

No.	Heads of Charges.	Amount.			REMARKS.
		Rs.	a.	p.	
I.	Direction and subsidiary charges	...	3,888	0 0	A part of the charge under this head may fairly be included under the third, as the offices of Superintendent and Head Masters are combined.
II.	Inspection and subsidiary charges	...	2,232	0 0	
III.	Instruction charges, including sundries	...	19,978	8 0	
IV.	Grants from the Educational Department...	...	2,244	0 0	
	Total	...	28,342	8 0	

I.—The charges under this head include the salaries of the Superintendent and his establishment (Rupees 3,768), and his Office contingency (Rupees 120).

II.—The charge under this head includes the salaries of the Inspector his Establishment (Rupees 1,824), travelling allowance of the Director (Rupees 240), and his Office contingency (Rupees 168).

III.—The charge under this head includes the salaries of the Head teachers and their assistants, contingent allowances, and the rents of school-houses.

IV.—The charge under this head includes scholarship allowances, bursaries, and grants-in-aid.

Instruction Charges.

Names of School.	What language taught.	Numerical strength of students.	Average daily attendance.	Annual expenditure.	REMARKS.
Madore Madressa...	English up to the matriculation standard	145	111	Rs. 4,326	Five students passed their matriculation last year from this school.
Margone	English elementary lessons up to Anglo-Vernacular standard				
Madore Madressa...	IV. Sanskrit	15	9	369	
Do. District	Ditto	27	23	738	
Do. Madressa...	Persian	116	74	1,341	
Do. District	Ditto	63	40	1,056	
Do. Madressa...	Mahrathi	215	162	1,239	
Do. District	Ditto	90	82	534	
Do. Madressa...	Hindee	291	173	1,662	
Do. District	Ditto	80	65	433	
Do. Female	Hindee and Mahrathi	1,298	905	5,209½	
Do. School	Mahrathi	574	409	2,616	
Do. Ditto	Hindee	20	14	225	
		20	13	225	
	Total	2,954	2,080	19,978½	

Grants from the Educational Department

No	Heads of Charges	Amount of annual grant <i>Rupees</i>
1	Four Scholarships of Rupees 12 each per mensem tenable by four matriculated students at the Elphinstone College	576
2	Two Scholarships of Rupees 15 each per mensem tenable by one F E A and one matriculated student at the Deccan College	360
3	One Scholarship of Rupees 12 per mensem tenable by an Ahmed nuggur student at the Poona High School	144
4	Salary of the Sanskrit tutor to Their Highnesses the Princes	360
5	Donation to Indore Native Library	144
6	One Scholarship of Rupees 15 per mensem tenable by an F C E at the Civil Engineering College	180
7	Donation to Military Schools Indore	480
Total		2 244

Medical—Besides the medical institutions in His Highness' territories, subject to Dr Beaumont's supervision, there are some Native Hakeems, Vaccinators, &c, employed by the Sircar in different parts of the country Their efforts are, however, as yet of a desultory character, and their returns very imperfect, not to say not perfectly reliable His Highness has lately been pleased to sanction special funds for augmenting vaccination, and a more efficient service will be organized when the rains are over

General—The last year (Fuslee 1283) was favorable to opium, Indian corn, sugar-cane, jowaree, cotton, &c

It was somewhat unfavorable to wheat, gram, &c Public health fair

Road—Besides the main lines kept in repair by the Agency of British officers, there are hardly regular made interior roads to speak of But His Highness has sanctioned the roads from this to the Chumbul towards Dhar and to Depalpoor several miles in length, and likely to cost not much less than Rupees 3,00,000 in all In the city, of course, the roads have been mostly made or repaired, and drains have been largely made

CHAPTER III.

REVIEW OF REPORTS OF POLITICAL OFFICERS, GWALIOR AGENCY.

1. Lieutenant-Colonel Willoughby Osborne submits a brief report, having only held charge of the Agency from the 7th February when he relieved Major Impey, who was compelled by ill-health to go to England.

Maharaja Sindia was married on the 29th November 1873 to the niece of the Chief of Sawunt Warree. The bride is said to be highly educated.

A Camp of Exercise was held by His Highness in February last. The following troops took part in the manœuvres:—

28 Guns.	|	1,000 Cavalry.
3,000 Infantry.		

The Maharaja was much pleased with the efficiency displayed.

2. Colonel Osborne reports that the Dewan, Gunput Rao Dada Sahib Khurkey, performs his duties to the satisfaction of the Maharaja.

The relations between the Durbar and the Political Agency continue satisfactory.

3. The outturn of crops has been good, as well as the general health throughout the Gwalior Agency.

The rainfall was 49·3 inches.

BHOPAL AGENCY.

4. Mr. Barstow, C.S., succeeded Lieutenant-Colonel Osborne in the charge of this Agency on the 31st January last.

The general health and condition of the States is reported to have been satisfactory.

The registered rainfall was 43·5 inches. The crops were everywhere good, and there has been no increase of ordinary offences.

Dacoities have, however, been frequent, especially on the roads between Bhopal and Hoshungabad, and Bhopal and Hurda. An additional force has been raised by Her Highness the Begum for the suppression of dacoity in her districts, and it is hoped that the measures taken will prove successful.

5. *Bhopal*.—The general condition of the State is said to be prosperous. No date has as yet been fixed for the marriage of Her Highness' daughter, the Sultan Jehan Begum, with Ahmed Ali Khan, but the ceremony of betrothal has been celebrated. The approval of His Excellency in Council to this marriage was notified to Her Highness the Begum by a khureeta.

The custom and transit duties of the State have been consolidated, and a uniform rate fixed for the whole State. The Political Agent remarks that although the opportunity was taken to free a number of articles from duty, still taxation on the principal articles of merchandise remains as heavy as before, and little or no relief will be afforded to trade. Another measure which has lately been introduced requires travellers to show a license for carrying arms. The object of this is to

suppress dacoity and highway robberies, but as Mr Barstow remarks, the license posts can be so easily avoided that he questions the advisability of the plan

6 The State debt, which in 1869 amounted to nearly Rupees 7,00,000, has been paid off This has been reported to Government, and Her Highness has received a khureeta of congratulation from His Excellency the Viceroy on the successful administration which has led to this happy result

The Political Agent attaches a translation of an Administration Report framed by Her Highness, which notes that settlement operations are in progress A survey of the country is being made for the first time, and the revenue, it is estimated, will be increased 60 per cent by a revised assessment This increase to be further raised to 75 per cent after 4 years The condition of the people must be prosperous indeed to bear this change

7 The Political Agent visited Bhopal in February, and reports on the condition of the jail, which is on the whole satisfactory Her Highness' Administration Report contains details of all that was seen and done by her in the outlying districts of the State during her tour

8 *Rajghur*—The condition of the State is satisfactory

9 *Nursinghur*—The succession of the young Chief, Pertab Sing, was acknowledged by the Government of India in April 1873, but his investiture was delayed until December last, pending an enquiry into the claims of the Indore Durbar to be consulted on the question of the succession The affairs of the State are managed satisfactorily A considerable quantity of land has been lately brought under cultivation, but there is still a large amount of land waste capable of being turned to good account

10 *Kulchipoor*—Colonel Osborne visited Kulchipoor in December last, and presented the Chief with the Sunnud granted by the Government of India conferring on him the title of Rao Bahadoor

The affairs of this State are well managed

11 *Koorwai*—The Nawab is 60 years of age, and has no sons The question of succession to the State has been referred already to the Government of India, No 3P-18, dated 28th January 1874

The country is backward, thinly populated, and much land is waste

The State currency has been changed with advantage from the Seronge to the Government rupee A favorable rate was allowed in this exchange

12 *Muxoodunghur*—The Chief, an adoption from the Ragooghur family, is a minor Affairs are managed by the widow of the late Raja assisted by a Manager, who was formerly a Chobdar The State is subordinate to Sindia When granted to the present family by Jean Baptiste Filose on the part of the Gwalior Durbar, the revenue was estimated at Rupees 1,10,000 The Political Agent remarks that a great decline must have taken place, as the present receipts barely reach Rupees 31,000, and about half of this is khalsa

13 *Basowda*—This petty State is an offshoot from Koorwai, having been originally a younger son's portion

The Chief is a well informed man, who has gained advantage by travelling a good deal in India. He manages his property well, reclaims jungle land, and sinks wells.

14. *Mahomedghur*.—The affairs here contrast badly with Basowda, of which the State is a division, bearing the same relation to it as Basowda does to Koorwai. The town is in decay. Revenue decreasing, and much land lying waste.

15. *Putharee*.—Another Mahomedan Chiefship subordinate to Gwalior. The family is descended from Dost Mahomed, the founder of Bhopal. The young Chief, who has only lately been put in charge, is still under a tutor. The affairs of the State have been well managed.

16. *Larawut* is still under management. The debts have been reduced from Rupees 16,073 to Rupees 5,737, and it is hoped will be paid off by next year.

17. *Pergunnahs of Sindia and Holkar under Bhopal Agency*.—These pergunnahs are favorably spoken of.

18. *Pergunnah Seronje, Tonk*.—The revenue of this district, which was formerly Rupees 3,00,000, has dwindled to about half that sum. The chief town, which was formerly prosperous, is now decayed and deserted. Cattle-lifting is very prevalent.

19. *Pergunnah Sarungpoor of Dewas* shares the mismanagement prevailing in the State of the Senior Chief of Dewas. Tankas due to Nursinghur, Dhabla Dheer, and Dharla Kheree, assigned from this district, were long delayed, and payment was obtained with difficulty.

GUARANTEED GRASSIAS AND THAKOORS.

20. *Agra Berkhera*.—The Thakoor is a Jaghiredar of Gwalior. He is greatly in arrears with the revenue due to Sindia, and his difficulties in consequence have increased.

Sootalia, Heerapoor, Kumalpoor,
Dhabla Dheer, Dhabla Ghosee, Dharla
Kheree, Kharia, Ramghur, Doogriah,
Jeplia Nuggur.

21. There is nothing worthy of special notice concerning the jaghire-dars marginally noted.

BUNDELCUND AGENCY.

22. Dr. Stratton reports another year of misfortune in respect to weather and crops in Bundelcund.

Rain fell abundantly, but too continuously, and ended too abruptly causing a heavy loss in the khureef crops, which comprise the cheaper grains. Cotton was a failure; the mahwa crop of the hot weather 1873 failed; and cattled disease was prevalent. For three-fourths of the year things looked very gloomy. The condition towards the close of the year seems to have improved, the rubbee crop being larger than was expected. Imports from the North-Western Provinces and from the Nerbudda relieved the prevailing high prices, and lastly the mahwa crop was good. Most of the States have had to encounter annual deficits, and among the poorer classes semi-famine has been long chronic.

Cholera showed itself in the north east and in the adjoining district of Banda, but generally in Bundelcund the public health was fair

23 Three Chiefs, viz, Duttia, Sumpthur, and Chirkaree attended the Viceregal Durbur at Agra in November 1873 More of the Bundelcund Chiefs would have attended but for distress caused by hard times and short revenues in their States

24 The following Chiefs died during the year —

(1)—Rao Gopal Lal, Jaghiredar of Kampta Rajola, on 3rd October 1873, succeeded by his son, Rao Bharut Pershad

(2)—Raja Chutturpal Sing, Chief of Beronda, on 2nd March 1874, succeeded by his uncle, Baboo Rughburdial Sing

(3)—Maharaja Mahendur Humeer Sing Bahadoor, Chief of Oorcha or Tehree, on 4th March 1874, succeeded by his younger brother, Koor Pertab Sing

25 *Oorcha or Tehree* suffered much from the failure of monsoon crops The Maharaja died on 4th March 1874 of fever, it is feared his death was hastened by the ignorance of Native Hakeems The Maharaja desired the attendance of an English Doctor, but not till it was too late, and there was no Doctor within 30 miles

The succession of his younger brother, Pertab Sing, has, since Dr Stratton closed his report, been recognized by the Government of India, and Major Mayne, Political Assistant, has been deputed to Tehree to aid and advise the young Chief

26 *Duttia* suffered from unfavorable seasons The Maharaja fell ill after the Agra Durbur, and has not paid much attention to the management of the State The debt is large and increasing

27 *Punnah*—The young Chief continues to do well Attention is being given to public works in the State, and Dr Stratton looks forward to the time when made roads and practicable ghats will remove the physical barriers which have hitherto isolated Punnah

28 *Ajghur*—The State is still hampered with debt Endeavours to liquidate have been only partially successful owing to bad seasons The young Chief is doing well

29 *Chirkaree* usually in a flourishing financial condition, proves the result of bad seasons by showing a deficit due to arrears and necessary remissions in revenue collections

The Chief is now 21 years of age, and is most anxious to assume the management of the State

The Government of India has authorized his installation, and deputed Captain Martland for a time to assist the Chief with advice and support

30 *Byawur*—The expenditure has been within the income, though little has been done in the way of public works

31 *Baonee*—The Government of India granted a loan of Rupees 25,000 to help over the difficulties occasioned by a succession of bad seasons in this State

BAGHELKUND AGENCY.

32. The chief events noted are:—

The birth of a son and heir to the Maharaja of Rewah.

The death of Raghoobind Sing, Chief of Nagode, on 22nd February last, and the succession of his son, Jadoo Bhindi Sing.

The general health of the district was good, though cholera appeared in an epidemic form at Nagode and Sohawul.

The rainfall was above the average, but unseasonable. The khureef crops failed, and some anxiety was felt for the rubbee crop, which happily promised to turn out well at last. Much grain was imported from the Central Provinces, and no cases of actual distress from want of food have been brought to notice.

33. *Rewah*.—The promises made of a reform in administration have not been fulfilled. The want of some Manager or Dewan is greatly felt. The result of the present management is distressing to the ryots, and productive of intrigue and confusion among the State officials.

The administration of justice continues to be ill-conducted.

Interest on the Government loan of 10 lakhs has been paid up to October 1873, and one lakh of the debt has been liquidated.

34. *Nagode*.—The young Chief promises well. The State has been placed under the general supervision of the Political Agent, the management being conducted by a Council composed of the Political Agent, the Minister, and the Chief.

35. *Myhere*.—The Chief attends personally to the administration, which is fairly good. The system inaugurated when the State was under management is to a great extent kept up. The Chief is ably assisted by his kamdar, Baboo Dinanath Ghose.

36. *Kotee and Sidpoora*.—Both of these States are favourably of.

WESTERN MALWA AGENCY.

37. Major Martin, who has held charge of this Agency during the year under report, gives in a concise readable form an excellent description of his charge.

He relates the history of the dacoities committed at Oojein and Nulkheira in May 1871 and May 1872, and giving a brief account of the habits and mode of carrying on depredations of the Meena tribe describes how the dacoities referred to were planned and carried out.

In the dacoity committed near Oojein Rupees 12,500 were stolen, and one man killed by the dacoits. Seven Meenas were arrested for this crime and all were convicted and sentenced to transportation.

The Nulkheira dacoity was a more serious occurrence, for of 15 men were guarding the place, one was killed. At the time, nine were armed, and an officer of their name was killed. Bars of silver were taken on the spot. Of 24

Meenas charged with this dacoity 22 have been convicted Three of these, ringleaders, were hanged, and the rest have been sentenced to transportation for life

38 Major Martin's notes of his tour through Western Malwa describe the condition of each of the States under his Agency, and contain a clear account of the assessment of land in Maharaja Holkar's zillah of Rampoora and Sindia's district of Mundisore

39 *Sectamow* —The State is well conducted The heavy tanks (Rupees 50,000) paid to Sindia hampers the financial condition of the Chiefship, but for this there is no remedy

40 *Jowra* —The Nawab has been on a tour Calcutta Madras and Bombay were visited, and both instruction and pleasure were derived by the journey The State has been ably administered by the Lamdar, Huzrut Noor Khan The general contentedness and prosperity of Jowra continues The young Nawab now entered on the responsibilities of the charge of his State under very favourable circumstances His State is made over to him free of all encumbrances, with a revenue of about nine lakhs and with all the advantages of the kindly and able rule which Huzrut Noor Khan has exercised during the past nine years

41 *Sillana* —The State debt is in course of liquidation

42 *Rutlam* —Under the able superintendence of Mir Shahamut Ali, C S I, Rutlam continues to thrive The prosperity of the State is as solid as could be wished, and improvements are yearly made

The young Raja is handsome and intelligent, a good horseman, he is the pride of his Chiefs and people He has made fair progress with his studies, and has greatly improved in health

The Superintendent's report on the administration of the State is attached Mir Shahamut Ali reviews the results of his 10 years' administration and shows that in addition to the liquidation of a debt of eight lakhs of rupees, and the payment of the ordinary charges of the State, more than six lakhs have been expended on roads, bridges and other useful public works The whole expenditure during his charge of the State being over 48 lakhs, a sum less than the receipts by Rupees 4,733 The revenue has increased, and every branch of the State has been improved under Shahamut Ali's management

Education is becoming popular in Rutlam The school is largely attended, and the report for the past year is very satisfactory

The general health of the State was good The rainfall was 39 inches 6 cents The crops, though injured in some parts by heavy and unseasonable rain, gave an average outturn The price of the food grains of the poorer classes is lower than usual

BHDEL AGENCY

43 *Bhopawar* —Major Kincaid reports that life and property have on the whole been secure, although cattle lifting by Bheels on the Kooshulghur and Jhaboor frontier has increased owing to the want of supervision by the Kooshulghur authc

The Moghias in the districts round Dhar have been troublesome, but the system of roll-calls of all the known members of the tribe has been instituted, and this it is hoped will put down the robberies which of late have been frequent.

44. *Dhar*.—The administration of this State is fairly good. The Ruler popular and anxious to do right. Has contributed largely to useful public works, such as the Ghatabilode and Dhar road, a feeder to Holkar State Railway, the Chumbul bridge, &c. The Raja is interested in education; his English School contains 52 pupils, Native Schools 482, Girls' School 25, making a total of 559.

There are two dispensaries, one under Dr. Beaumont, Residency Surgeon, the other under a Native Doctor. Both have been of great use and value. Though the Political Agent reports a great prejudice against vaccination amongst the Natives, this however is unshared in by the Chief.

The finances are in a flourishing state, roughly :—

Revenue	...	...	...	6½ lakhs.
Ordinary expenditure	...	...	...	5¾ lakhs.
Extraordinary expenditure, <i>i.e.</i> , roads, &c., and Burwai Durbar	...	...	...	1½ „
Total				7¼ lakhs.

Aggregate savings are 9¾ lakhs, of which 5,31,400 are in Government Paper, and the interest is converted into fresh scrip.

45. *Bukhutghur*.—Under supervision, the Chief being a minor at school at Indore. The debt which in 1862 amounted to Rupees 53,900 has been reduced to Rupees 17,700. The receipts for the past year were Rupees 64,000, and expenditure Rupees 42,900. The State would profit from the appointment of an experienced Native Superintendent, but the object is to secure the services of a suitable man.

46. *Jhabooa*.—The administration is good, but the State is in great want of schools, hospitals, &c.

The revenue is stated to be Rupees 1,29,000, and the expenditure within that sum, but Major Kincaid says that no faith can be placed in the accuracy of the Returns furnished. The personal expenses of the Chief exceeded Rupees 50,000.

47. *Ali Rajpoor*.—The Chief was put in charge of his State as an experimental measure in May 1873. No. 809P., dated 30th April 1873, from the Government of India, Foreign Department. Rai Bahadoor Vencut Ram, late Superintendent of Burwanee, being appointed Dewan. During the year the State has been well managed, and the relations between the Raja and his Dewan have been good. The Chief attends to business and has done well. There has been a small deficit in the year's accounts, but the State debts are now paid off, the revenue is over one lakh. Roads and other public works have been undertaken, and the general condition is prosperous. The State Schools are well attended and the dispensaries are well spoken of.

48 *Jobut* —A settlement of this small Bheel State was made last year by Khan Bahadoor Nuzuf Khan (then Superintendent of Ali Raj poor) It is hoped that the arrangements then made will be carried out, and that the State will benefit accordingly

The debts amount to Rupees 44,000 The revenue is Rupees 17,000, and the expenditure Rupees 15,000, but under careful management the revenue is capable of increase, and this will enable a speedier liquidation of the debt to be effected

GUARANTEED BHOOMIAS

49 *Neemkhera* —The Bhoomia of Neemkhera is at the Indore Residency School

The income is Rupees 16,900, expenditure Rupees 7,700 The debts now amount to Rupees 6,500

50 *Kalee Bouree* —Tej Sing, the Bhoomia of Kalee Bouree, died during the year His son, a boy of ten, succeeds him He is at present at the Indore Residency School The management of the State, under the supervision of the Bheel Agent, is entrusted to Motee Sing, the uncle of the young Bhoomia

DEPUTY BHEEL AGENCY

51 *Maunpoor Pergunnah* —During the year 250 beegahs of waste land have been brought under cultivation, and 30 new settlers have established themselves in the pergunnah

Captain Blowers, who effected the settlement of this district in 1867, finds on his return after six years' absence that the progress made is less than he had expected He attributes this chiefly to the poverty of the malgoozars, who are themselves involved in debt and are unable to give aid to new comers, and also to the lazy and extravagant habits of the cultivators, who are more or less indebted to the local bunnias During the past 10 years after paying all expensess the surplus revenue remitted to Government amounts to Rupees 60,000 The want of wells is much felt The year's receipts (Rupees 7 285) are less by Rupees 1 271 than the amount collected during the previous year The expenditure was Rupees 4,989, and is within the Budget Estimate

52 *Burwanee* —The Chief has during the past year been placed in charge of the State as an experimental measure, Khan Bahadoor Nuzuf Khan being appointed his Dewan

No 809P dated 30th April 1873
from the Government of India Foreign
Department

The management has been well conducted owing to the excellent services of the Dewan So long as no change is made in the present system by which the Chief leaves everything to Nuzuf Khan, the affairs will continue to prosper

The revenue has suffered a slight decrease, being Rupees 85,205 against Rupees 93,677 in 1872-73, this has been caused chiefly by the grant by the Rana of a village in jaghire to one of his wives, and by a fall in the receipts on account of export duty on grain

Burwance owes its prosperity to having been under management. When taken over in 1861, the revenue was under Rupees 30,000, plunder rife, and every thing in disorder. It is now orderly and well cultivated, with roads, schools, and dispensaries, a revenue of Rupees 85,000 and one lakh in Government paper. During the past year the crops were above the average, the health of the district was good and there has been less crime than usual. The peace of the country has been unbroken. The Bheels are contented and quiet.

53. *Jamnia Bhoomia*.—The Bhoomia is at the Indore Residency School. His State is under management. The receipts for the past year were Rupees 14,000; ordinary expenditure Rupees 9,600. The debt has been reduced to Rupees 4,000.

The boundary between Indore and the 47 paras of Jamnia has this year been demarcated and masonry pillars built.

54. The guaranteed Bhoomias marginally noted, are under the Bheel Bhoomias of Rajghur, Baroor- Deputy Bheel Agent's superintendence. poora, Koteeday, Furhee. Captain Blowers reports that nearly all of them are heavily in debt owing to the abolition of road dues and the resumption by the Durbars of the extra sources of revenue they received for so many years.

The Bhoomias will soon learn the advantage of paying attention to the lands they hold, and will find that by good management they can better their condition by increasing cultivation and improving their holdings.

55. *Bagode Pergunnah*.—This small pergunnah has been fairly managed.

The receipts were	...	...	...	Rs.	2,539
Expenditure	...	...	...	,,	1,194

leaving a balance of Rs. 1,345

be divided between the two Chiefs of Dewas.

This district suffered severely from cattle disease.

GOONA AGENCY.

56. The peace of the country has been undisturbed; life and property have been secure.

The khureef crop failed, but the rubbi harvest has been above the average. The health of the district was good.

Captain Buller reports having collected from the guaranteed Chiefs of the Gwalior Durbar the sum of Rupees 3,842, being arrears due since 1868 of the school and road cesses levied by Sindia at the rate of 2 per cent. on their incomes.

The want of a school is greatly felt, and it is hoped that Maharaja Sindia will do something towards the establishment of the institutions for the supposed existence of which these cesses are levied. The Maharaja will be addressed on this point and the attention of the Political Agent directed to it.

57 *Sindia's pergunnah of Bujrunghur*—Captain Buller notices that a new assessment has been made in this district, which falls heavily on the ryots. The annual fairs held at Goona and Bujrunghur were exceedingly well attended, large quantities of cloth and country manufactures were sold. The remission of half the dues usually levied on articles sold at these fairs has been the means of increasing their popularity.

58 *Ragooghur*—Captain Buller reports that this Chief was formerly much in debt, but is living quietly and reducing his expenditure.

59 *Parone*—Has been fairly managed.

60 *Gurra, Omri, Bhadora*—These three petty States are favourably reported on.

61 *Sirsi*—The Chief is a minor, his uncle superintends the management of the State where affairs are not progressing as they should. The manager is negligent, and the property is ill cared for. A gang of notorious dacoits from the Lullutpoor District found shelter in Sirsi. Captain Buller called upon the manager for an explanation, and he eventually gave information which led to the capture of two of the ringleaders of the dacoits, and the dispersion of the rest of the band. Duffadar Dhoonday Khan, 2nd Regiment, Central India Horse, received a moiety of the Government reward for the capture of these men which he effected single-handed though twice wounded with a tulwar.

62 *Dhanaoda*—The Chief under the advice of the Political Assistant has reformed his extravagant habits, and his district has been better administered.

CHAPTER IV

JUDICIAL

The following partial extension and suspension of Acts of the Supreme Legislature took effect in the Central India Agency during the year 1873-74—

(1) Code of Civil Procedure as amended by subsequent Acts (in so far as it may be applicable) was extended to Neemuch Cantonment with effect from the 1st October 1873, *vide* Foreign Department Notification No. 167J, dated 22nd August 1873.

(2) The operation of Section 17 of Act XI of 1841 was suspended in Neemuch Cantonment, *vide* Foreign Department Notification No. 168J, dated 22nd August 1873.

2. SECTION I.—*Civil Justice.*

CLASS OF COURT.	NUMBER OF SUITS.					SUITS DISPOSED OF DURING 1873-74.		
	Pending at close of 1872-73.	Filed during 1873-74.	Total.	Disposed of during 1873-74.	Pending at close of 1873-74.	Value.	Average cost of conduct of suits.	Average duration of cases.
Political Officers ...	53	1,330	1,383	1,305	78	Rs. a. p. 1,18,209 12 10	Rs. a. p. 9 2 10	2·85
Cantonment Magistrates ...	420	2,928	3,348	2,937	411	1,42,651 14 1	5 0 3	1·083
Total ...	473	4,258	4,731	4,242	489	2,60,861 10 11	7 1 6½	1·966

On comparison with the Tabulated Statements of the five previous years, and looking at the average number of suits filed (which stands at 4,130) it will be seen from the above that there is a slight increase in the number of civil suits instituted in the Courts of Central India this year.

3. Against 863 cases filed in the Courts of Political Officers last year the Table shows that 1,330 cases were filed this year, but there have been fewer cases on the files of the Cantonment Courts, *viz.*, 2,928 against 3,076 of last year.

The Political Courts disposed off 1,305 cases against 863 last year, leaving a balance of 78 at the close of the year, against one of 88 at the close of last year.

The Cantonment Courts disposed off 2,937 cases this year, against 3,361 last year, leaving 411 cases pending against 306 of last year.

4. The total value of the suits disposed off in the Courts of Political Agents this year amounted to Rupees 1,18,209-12-10 against Rupees 68,947-7 of last year. And in the Cantonment Courts the total value stands at Rupees 1,42,651-14-1 against Rupees 1,21,385-12-7, making a grand total of Rupees 2,60,861-10-11, a considerable increase on the Rupees 1,90,333-3-7 of last year, and on comparison with the average total value of suits during the past five years, which stands at Rupees 2,05,307-14-8, a steady increase is apparent.

5. The average cost of a suit in the Courts of Political Agents has been Rupees 9-2-10 against Rupees 5-15-5 of last year.

The average cost in Cantonment has been Rupees 5-0-3 against Rupees 5-9-7 during last year.

6. The average duration of each suit was in the Political Courts 2·85 days, and in the Court of Cantonment Officers 1·08 days against 4·74 and 9·18 days respectively, a marked improvement in the quick conduct of suits. Fewer complaints also having been made of the difficulty of procuring the attendance of Native witnesses.

7. Mhow, the most litigious Cantonment in Central India, having a large bazar which has swelled into almost a city and does a large trade, holds its usual pre-eminence in the number of suits instituted, these being more in number than those of all the other Cantonments together.

In conclusion, the Courts have all performed satisfactory work

SECTION II — *Criminal Justice*

8 From the criminal Returns of the various Courts of Central India it will be evident that crime has not decreased

A Tabulated Statement is annexed showing the nature of crimes on which persons were brought to trial —

NATURE OF CRIMES	ADJUDICATED IN THE COURT OF		TOTAL
	Political Officers	Cantonment Magistrates	
Murder and attempted murder	10		10
Culpable homicide	25		25
Dacoity	111		111
Receiving stolen property	24	45	69
Robbery on highway or elsewhere	10	3	13
Theft of cattle and ordinary theft	309	236	545
Miscellaneous offences	486	639	1 125
Total	975	923	1,898

No less than 1,898 persons were tried during the year under review against 1,801 last year and 1,629 the year before. In the Courts of Political Officers 975 persons were tried, the average for the two previous years being 854 5

9 In the Cantonment Courts 923 persons were tried, 860 5 being the average of the two years preceding. The total number of cases tried this year was 1,281

10 Of the 1,898 persons tried 1,146 were convicted or 60 3 per cent. Finally there were 15 cases only standing on the Registers at the close of the year (against 33 at the close of last year) and 32 persons awaiting trial

Sentence of death was carried out in one case only

Transportation awarded in six cases, and to 26 persons

The punishment of whipping was inflicted in 56 cases

11 The average duration of each criminal case was in Political Courts 9 32 days and in Cantonment Courts 3 71 days

One thousand three hundred and sixty-seven persons attended the Political Courts as witnesses for 3,375 days, an average attendance of 2 54 days each

One thousand and thirty-nine persons attending for one day only.

In the Cantonment Courts 1,008 witnesses attended for 2,725 days, an average of 2 44 days. Eight hundred and forty-one persons attended for one day only

12. The crime of dacoity, which had increased from, as reported, five cases in 1869-70, and two cases in 1870-71 to the higher numbers in 1871-72 and 1872-73, when 75 and 80 persons respectively are reported to have been tried, shows no tendency to diminish in Central India. Forty-eight cases were tried and 111 persons. Three cases and 14 persons remaining to be tried at the close of the year. Dacoity has been severe, and the cases desperate. Of these 48 cases, 27 were tried under the direction of the Assistant-General Superintendent, Thuggee and Dacoity, in the Court of the Agent to the Governor-General at Indore; 12 by the Political Agent, Bhopal; 6 by the Political Agent, Western Malwa; 2 by the Political Agent, Bundelcund, and 1 by the Political Assistant, Goona.

The statistics of theft, whether of cattle or otherwise, are slightly better than those of last year.

13. A growing nuisance in Central India is that of destitute Europeans who find their way begging up or down the Trunk Road.

This is a very undesirable element to find its way into Native States, and the spread of railways is not likely to lessen the evil.

Every effort is made to keep these wretched waifs from trading upon the credulity or compassion of Natives. Many are too wretched for punishment, and as they cannot be left to starve, they are usually deported to Bombay, by paying their fare and supplying food for the journey.

SECTION III.—Police.

14. The Police force of Central India is necessarily undrilled, but performs the local duties required of it satisfactorily.

The appended Statement shows the number and cost of the Police Establishments kept up under the Central India Agency:—

NAME OF OFFICE.	PAID BY BRITISH GOVERNMENT.			PAID BY LOCAL, MUNICIPAL, OR STATE FUNDS.			TOTAL OF ALL GRADES.		
	Men of all grades		Cost.	Men of all grades.		Cost.	Men of all grades.		Cost.
	Mounted.	Foot.		Mounted.	Foot.		Mounted.	Foot.	
			Rs.			Rs.			Rs.
British or Local Police under	8	166	20,012	10	324	27,863	18	490	47,375
Political Officers ... ..	...	...	...	...	298	21,393	...	298	21,393
Cantonment Police ... ..	...	...	...	...	...	...	...	...	...
Total ...	8	166	20,012	10	622	51,756	18	788	71,768

The number of mounted Police kept up during the year is only 18, and of foot 788; they are entertained at a total cost of Rupees 71,768, of which amount Rupees 20,012 is furnished by the British Government and Rupees 51,756 is met from Local, Municipal, or by Local State Funds.

The conduct of the force has been good during the year under review.

SECTION IV.

15 Jails—The following Statement gives in detail the Jail statistics of the Central India Agency for the year under review —

NAME OF JAIL	NUMBER OF PRISONERS					Remaining in Jail on 31st March 1875	EXPENDITURE DURING THE YEAR						Total	Daily average number of prisoners	Annual average cost of prisoners.	REMARKS	
	In Jail 1st April 1873	Admitted during the year	Total	During the year				Ration of prisoners	Contingent charges	Clothing of prisoners	Fixed Establishment	Extra Establishment					
				Transferred	Escaped		Died										Discharged	Total
Indore	217	243	460	72	1	159	231	5610 7 2	959 10 1	927 10 0	3612 0 0	1418 6 3	12879 1 6	20601	Rs a p 60 12 6	* The amount shown in column 14 was debursed from Local Fund	
Sekore	43	103	146	23		60	90	1112 4 0	147 15 10	220 13 3	39 11 8	709 8 7	2653 4 4	5015	Rs a p 47 12 6		
Angur	13	95	108	61		24	85	1015 3 11	6 9 13 6	343 11 9	756 0 0		2744 13 2	2946	Rs a p 93 7 1		
Goonna	8	6	17	3		6	9	256 7 1	20 10 6	63 0 0	836 0 0	4 0 0	1307 1 7	77	Rs a p 163 11 6		
Sunderpoor	5	11	16			12	13	167 0 0	39 0 0	18 0 0	84 0 0		59 0 0	42	Rs a p 63 12 11		
Maunpoor	7	33	40	37	1	56	87	104 4 6	21 13 2	11 7 11	312 8 0		137 9 7	391	Rs a p 31 1 21		
Nowgong	20	20	20	7		7	7	33 15 9	33 12 6	77 15 0			824 3 3	1248	Rs a p 2 4 0	Not opened till end of financial year	
Total	94	513	807	161	2	1	304	8394 10 5	2204 11 7	1631 8 11	6093 3 8	2169 14 10	20614 1 5	4555	Rs a p 70 15 8		
Customs Jails and Lock ups																	
Mhow	6	401	467	113		352	485	222 6 0	347 13 7	101 9 0	1463 0 0		2 2 6 0	700	Rs a p 31 12 34		
Morat	20	116	136	37		3	110	969 0 9					2862 7 4	2518	Rs a p 115 4 9		
Neemuch	15	74	89	13	1	71	81	315 10 0	30 1 9	39 2 6	61 8 0		2446 6 3	130	Rs a p 34 5 5		
Nowgong	3	87	90	30		60	90	115 3 6	15 15 9				131 3 3	331	Rs a p 39 10 3		
Total	44	739	783	193	1	1	556	1672 4 3	393 15 1	140 11 6	1525 8 0		3692 6 10	1212	Rs a p 65 4 2		
Grand Total	339	1251	1589	356	2	2	860	10016 14 8	2599 10 8	1792 4 6	7618 11 8	2169 14 10	24196 8 3	2983	Rs a p 63 1 11		

16. Statistics of Jails in Native States there are none which could be obtained of any value. The Jails are under the control of the States.

The Jail at Bhopal has an approach to method, and the Begum does not resist suggestions for improvement, nor the visits of British officers.

The Jail at Duttia retains some of the benefits introduced under British management.

That at Gwalior, though much changed from the state in which it was a few years ago, has still room for improvement.

The Indore Jail was a frightful den, in which criminals and petty offenders were manacled together. Since the advent of Sir Mahdava Rao, I am told, much has been done to put things on a better footing. He has abolished a fruitful cause of misery towards women—a charge of abortion or attempt at abortion—a mere charge was enough to condemn respectable women to be massed with others guilty of any crime, and then condemned to imprisonment. They remained until relieved by friends or interested parties buying them out.

The result of this on morality may be conjectured.

Sir Mahdava Rao at an early period of his coming removed this horrible blot.

Major Martin has urged upon Jowra the advisability of building a good Jail, and with effect.

17. Meer Shahamut Ali, the able Superintendent of Rutlam, states the number of prisoners admitted to the Rutlam Jail to have been 69 during the year, the daily average number in Jail to have been 79·75, at an average annual cost of Rupees 79-10-9 per head. Rupees 6,354-2 was expended during the year, of which Rupees 1,659 was for the subsistence of prisoners under trial.

The prisoners are employed on State works and in a school of industry.

18. The total expenditure on Jails under the direct control of the Agency was Rupees 24,196-8-3, of which Rupees 12,528 is the cost of the working of the Indore Central Jail and establishments.

19. The supervision of the Central Jail is with the Residency Surgeon, Dr. Beaumont, and thoroughly efficient this supervision is. The health and the conduct of the prisoners has been very good. There were 243 admissions and a daily average of 206·01 prisoners.

20. The Cantonment Jails are under the Cantonment Magistrates of their Stations. The total number confined in Cantonment Jails was 782 and in political Jails 807 or 1,589 during the year. Two men escaped from Bhopal and Maunpoor Jails. The health of the prisoners throughout the Agency has been good, only two deaths reported, one from Bhopal and one from Neemuch Jail, or two deaths among 1,589 prisoners.

21. The annual cost per head is shown at Rupees 63-1-11, which will bear favourable comparison with last year's average (a high one of Rupees 100-10-3), or even with the average cost per head for the last five years, which (not taking into account the statistics which were in former years rendered by Native States, and which are untrustworthy) stands at Rupees 77-7-3 per head.

CHAPTER V.

REVENUE

1 His Highness Maharaja Holkar has paid in the 16th and 17th instalments of the sum of Rupees 23,81,520 due for the capitalization of his contributions to the Malwa Contingent and Malwa Bheel Corps There remain only three more instalments to be paid

His Highness has also paid in eleven lakhs during the year under review on account of the loan of one crore of rupees for the Holkar State Railway He was desirous of availing himself of the power of paying the annual contribution in a lump rather than by instalments His Highness was prepared to go further, provided $4\frac{1}{2}$ per cent was returned

Statement Tables are attached showing the sources of ordinary Imperial revenue and of Local Funds, of payments made by Native States as contributions to Corps and Contingents, fixed payment for istumrar land, and tributes paid to or through the British Government

The Abkaree revenues of the Mhow and Neemuch Cantonments have been placed at the disposal of their respective Cantonment Committees

2 *Opium*—The Statement in the margin shows the number of

Year ending 31st March 1874.	Number of chests	Amount of duties	
		Rupees	£
Estimate	35 000	2 10 00 000	2 100 000
Actual	42 112	2 57 67 200	2 526,720
Increase	7 112	42 67 200	476 720

chests that passed the scales during the year ending 31st March 1874 and the amount of duty realized The total number of chests weighed was 42,112 representing in duty paid to Government Rupees 2,52,67,200 or £2,526,720,

being 7,112 chests, or Rupees 42,67,200 more than the estimate for the year

In addition to the above amount Rupees 16,309 were realized by the sale of stamped paper for hoondees in payment of the duty

The expense of establishment kept up by Government in Malwa during the year was Rupees 14,580, or £1,458

The estimate for the current year, 1874-75, is 35,000 chests, and the duty Rupees 2,10,00,000, or £2,100,000

Of the 42,112 chests the weighments were made as follows —

At Indore	18,696 Chests
Rutlam	2,011 „
Dhar	1,808 „
Oojern	11,488 „
Oodeypoor	8,109 „
Total	42,112 „

The one rupee cess upon chests weighed at Indore and Oojein for the construction and repairs of roads used by the opium traffic is as follows:—

	Rupees.
Collected at Indore from 1st April 1873 to 31st March 1874	18,696
Collected at Oojein from 1st April 1873 to 31st March 1874	11,488
Total ...	30,184

1873-74.

I.—Ordinary Imperial Revenue.

	Rs.	a.	p.
Land revenue, abkaree, &c.	*11,600	13	5
Sale of Stamps	25,998	13	0
Judicial fees and receipts	2,960	1	0

Electric Telegraph and Postal collections,

including sale of stamps.

	Rs.	a.	p.
Electric Telegraph	71,461	15	1
Postal	1,23,043	6	10
		1,94,505	5 11
Miscellaneous		2,41,803	0 5
Grand Total ...		4,76,868	1 9

II.—Payments by Native States.

	Rs.	a.	p.
Contribution to Contingents	3,54,887	8	10
Tributes assigned to British Government ...	3,52,601	14	0
Tributes paid through British Government...	2,61,420	13	8
Fixed payments for istumrar land	4,225	0	0
Grand Total ...	9,73,135	4	6

* Abkaree revenue of the Mhow and Neemuch Cantonments have been placed at the disposal of the respective Cantonment Committees, *vide* Government Order, Financial Department, No. 1661, dated 12th March 1873, hence the decrease.

	Receipts			Disbursements								Total.	Balance on 31st March 1874.
	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.
I Cantonment Local Funds	2° 453 6 5	1° 77 673 1 9	2 00 0° 6 5 2	31 324 0 6	7 416 13 8	21 223 12 10	25 000 13 10	1 056 9 1	6 070 2 11		76 271 9 6	1 70 313 8 4	23 712 15 10
II Political Agencies and Mann poor Pergunnah funds	20 552 8 0	78 313 10 4	88 968 2 4	21 133 7 3	25 073 9 7	3 017 1 3	8 019 12 10	8° 0 0	1 431 3 1		14 736 14 1	74 312 0 1	24 624 2 3
III Fund raised for special purpose	24 225 1 3	32 234 10 1	58 459 11 4	17 079 0 0	502 11 8		1 452 0 0	16 538 15 4	6 918 11 9		1 618 15 3	44 567 6 0	11 902 6 4
IV Collection from local road dues &c	24 721 7 8	° 9 73 10 0	53 995 1 6	2 595 0 0	1 508 2 6		2 400 0 0		193 1 6	30 725 6 0	393 9 2	37 890 3 2	16 114 14 4
Grand Total	51 802 7 2	3 17 595 0 2	4 09 347 7 4	75 130 7 9	31 931 5 5	24 ° 40 14 1	36 93° 10 8	18 435 8 5	13 6° 6 3 3	30 725 6 0	93 070 10 0	3 27 093 1 7	82 254 5 9

CHAPTER VI.

EDUCATION.

Indore Residency School.
Neemuch Station School.
Sohore High School.
Mhow Zoroastrian School.
Morar Native School.
Malwa Wheel Corps School.
Bhopal Battalion School.
1st Central India Horse School.
2nd Central India Horse School.
Rajkoormar College, Nowgong.

IN the margin is a list of the principal schools of Central India.

It has been found very difficult to fill in a correct Return of the education supplied in Native States, and the sources of income applied by them to meet their expenditure.

A table, approximately correct as far as it goes, is annexed, from which it will be seen that education is progressing fairly in Central India:—

SCHOOLS	NO OF SCHOOLS			EXPENDITURE DURING 1873-74				SOURCE AND AMOUNT OF INCOME DURING 1873-74				
	Male	Female	Total.	Average daily attendance of pupils	Teachers salary	Contingent and other expenses	Total	Grant in aid from British Government.	One per cent cess and grants made from Local Funds and Native States	Contributions and subscriptions	Fees from pupils	Total.
Agency and Cantonment Schools	9	1	10	848 29	21,487 7 2	2,553 14 0	24,041 5 2	Rs a p 8,043 15 0	Rs a p 12,206 0 0	Rs a p 2,366 12 3	Rs a p 3,200 13 1	Rs a p 25,632 8 4
Muzaffarpur and Native State Schools	118	5	123	2329 82	41,069 14 1	4,229 8 9	45,298 6 10	1,048 11 7	22,408 6 0	1,077 9 9	10 10 0	24,514 14 10
Total	127	6	133	3178 20	62,557 5 3	6,782 6 9	69,339 12 0	9,091 10 7	34,614 6 0	3,443 15 6	3,211 7 1	50,867 7 2

CHAPTER VI.

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IN the margin is a list of the principal schools of Central India.

It has been found very difficult to fill in a correct Return of the education supplied in Native States, and the sources of income applied by them to meet their expenditure.

A table, approximately correct as far as it goes, is annexed, from which it

will be seen that education is progressing fairly in Central India :—

Indore Residency School.
Neemuch Station School.
Sohore High School.
Mhow Zoroastrian School.
Morar Native School.
Malwa Bheel Corps School.
Bhopal Battalion School.
1st Central India Horse School.
2nd Central India Horse School.
Rajkoomar College, Nowgong.

Schools	No of Schools			EXPENDITURE DURING 1873-74.			SOURCE AND AMOUNT OF INCOME DURING 1873-74					
	Male	Female	Total	Average daily attendance of pupils	Teachers salary	Contingent and other expenses	Total	Grant in aid from British Government	One per cent cess and grants made from Local Funds and Native States	Contributions and subscriptions	Fees from pupils	Total
Agency and Cantonment Schools	9	1	10	848 28	21 437 7 2	2 533 14 0	24 041 8 2	8 048 15 0	12 308 0 0	2 368 12 3	8 200 13 1	25 822 8 4
Maunpoor and Native State Schools	118	5	123	9329 92	41 068 14 1	4 228 8 9	45 998 6 10	1 048 11 7	22 408 0 0	1 077 3 3	10 10 0	24 544 14 10
Total	127	6	133	3178 20	62 557 5 3	6 762 6 9	69 339 12 0	9 097 10 7	34 616 6 0	3 445 15 6	8 211 7 1	50 367 7 2

The total average attendance in the schools of Central India is 3178·20 daily, which is a lower average than that of last year, but statistics have not been completely furnished, nor can they all be relied upon.

The Returns of Agency and Cantonment Schools are necessarily correct, and will bear comparison with those of last year.

2. *Indore Residency School*.—The Indore Residency School continues to be well attended. Rajpoot Thakoors and Bheel Chiefs under the Agency are encouraged to attend.

The following are now residing at Indore for the school :—

- 1.—Raghoonath Sing, Thakoor of Baglee.
- 2.—Purtab Sing, Thakoor of Bukhutghur.
- 3.—Runjeet Sing, Thakoor of Mutwarh.
- 4.—Aman Sing, Thakoor of Kalalia.
- 5.—Humeer Sing, Bhoomiah of Jamnia.
- 6.—Duriao Sing, Bhoomiah of Neemkheira.
- 7.—Rugoonath Sing, }
- 8.—Kishen Sing, } sons of the late Raja of Amjhera.

The total number of pupils on the Roll at the end of 1873-74 was 137 against 139 at the end of last year, with an average daily attendance of 99 against 105 in 1872-73.

English, Persian, and Hindee are taught according to the taste and requirements of the scholars; 66 per cent. of the whole are learning English, many with either Persian or Hindee as a second language.

The school is supported from Local Funds and fees paid by the students. Some difficulty has been experienced in providing a sufficient staff. There are at present three teachers in the English and one each in the Persian and Hindee Departments in addition to a Head-Master, who, besides being teacher of English, has to look to the supervision of the whole institution.

The total monthly cost of the institution at present amounts to Rupees 309, of which nearly 28 per cent. is covered by the fees collected.

The staff in the Vernacular Departments is weak.

The school was inspected in September last by Mr. Carnduff, of the Nagpoor Educational staff. At his suggestion some modification of the scheme of studies was effected so as to bring it up to the standard required for matriculation.

The first class stood in a fair way of passing that test in 1875, but three of the students of that class have since left, and the continuance of the remaining two also is uncertain. Of those who have left, His Highness Maharaja Sindia's son, Bulwunt Rao Sindia, was conspicuous for energy and attention. His absence from the School Debating Club is much felt. He took a personal interest in it, and handled the subjects under discussion with ability and promise. His place has been taken by the Raja of the Junior Branch, Dewas, who resides at Indore for education, though yet too young (14 years) to take a prominent part in English discussion; his attendance is beneficial to himself and others.

With a stronger staff of teachers there will be an increase of attendance. The tone of the school and teaching is earnest.

The school owes much to the supervision of the Native Assistant, Pundit Suroop Naram, and Mir Moonshee Dhurum Naram, both of whom are accomplished scholars

3 At Gwalior itself the Maharaja keeps up an establishment of one Director and two Inspectors of education, a College in the Luskur, and 93 schools of various sorts in the districts Six hundred boys are in the College, 50 of whom learn English In the district schools about 3,500 children are being educated

Complaints, however, come in from the Bhopawur and Goona Districts that, although the Durbar officials levy a school cess of one per cent, there are no schools established Captain Buller, Political Assistant at Goona, who has recovered the arrears of cesses outstanding since 1868 under this head, now hopes that the Maharaja will give some grant in aid to the establishment of a school in his districts, as the sons of Chiefs and Thakors are growing up in ignorance

The Morar School, which was originally started for the Christian boys belonging to the regiments stationed there, and kept up by private subscriptions, is now used as a school for boys in general A report has been made of the state of the finances, and a grant has been solicited from Government

4 Jowra boasts of five schools, the average daily attendance is 402, and the total expenditure is Rupees 7,427, or about Rupees 18 7-7 per head

5 At Rutlam the education of the young Raja himself has proceeded satisfactorily In the Central College and village schools progress is being made Mr Middleton is the Head Master, and Pundit Amernath, the Inspector, Vernacular Department

Hindee is a specially favorite study, Rutlam itself being a Hindoo State

The small table in the margin will show the sort of instruction supplied and the number of pupils who attended Also that there has been a good increase in the number of pupils since last year The average daily attendance in the Central College is reported at 242 and in the village schools at 334 (nearly) The total year's cost of the establishment has been Rupees 7,997-9 9, or Rupees 33-9 per head Education was supplied in the village schools at Rupees 5-11 per head This includes an increase of pay to the different teachers

Besides the above, Rutlam can boast of 15 private aided schools instructing 526 boys and 10 girls

The school system at Rutlam will compare with things generally in this State, and testifies to the vigour and good sense of the Superintendent Every thing is healthy at Rutlam

CENTRAL COLLEGE		NO OF PUPILS	
		Last year	This year
Studies {	English	64	75
	Persian	39	70
	Sanskrit	35	42
	Hindee	104	231
Total		241	418
VILLAGE SCHOOLS			
Boys		373	355
Girls		30	37
Total		402	392
Grand Total		643	810

In the European infantry lines, the plunge bath and hospital guard room were completed, the walls of the prayer-room were raised to full height, and the ball court nearly completed.

Stone flooring was substituted for the old plank floors in the upper stories of the three old barracks, and stone flooring in place of terrace was given to the upper story of No. 4 barrack.

In the Native infantry lines, magazines, armourer's shops, and rifle ranges were constructed for both regiments, additional subsidiary buildings were completed for the existing hospital, and a second hospital with all the subsidiary buildings was commenced and nearly completed during the year.

The Commissariat porter sheds commenced in the previous year were completed, and numerous minor works executed for the comfort and convenience of the troops at Mhow.

At Indore the quarters for Native servants attached to the European Infantry Detachment Hospital were completed, as also the magazine and store room for the Native Infantry Detachment.

At Augur the hospitals for Native cavalry and infantry were completed, and a rifle range and magazine were constructed for the Native infantry.

At Nagode a rifle range and armourer's shop were constructed, and quarters for the Hospital Assistant commenced.

CIVIL BUILDINGS.

3. *At Mhow* the reroofing of the Small Cause Court, commenced last year, was completed.

At Indore blocks of out-offices were constructed for the Residency and the 1st Assistant's bungalow, and a well for the opium godown was nearly completed.

At Nowgong a new Treasury was constructed near the Political Agent's Office, an additional room was constructed in the Post Office, and a range of huts for runners completed.

COMMUNICATIONS.

4. *Indore and Khundwah Road.*—This road, 80 miles in length, has been maintained in good order.

The northern portion, from Indore to the Nerbudda, has now been completed as a first class road, with the exception of a few culverts which remain to be constructed between the foot of the Ghâts and the Nerbudda River.

On the southern portion, from the Nerbudda to Khundwah, the traffic is still heavy notwithstanding the opening of the Holkar State Railway to the Nerbudda, and will continue to be so until the completion of the Railway to Mhow and Indore.

A diversion was made during the year to avoid a long steep gradient at the Deesgaon Ghât, which was a great obstruction to traffic.

The trestle bridge and ferry on the Nerbudda at Kheree Ghât were maintained throughout the year. The toll receipts show an increase of 25 per cent on the receipts of the previous year, which proves that there is a rapidly increasing traffic on this line of communication.

A temporary staging bungalow was constructed at Mortukka, on the left bank of the Nerbudda, for the convenience of travellers by the Holkar State Railway.

5 *Agra and Bombay Road*—The portion of this road in Central India, 458 miles in length, from Boreghur on the Candeish boundary to the northern boundary of the Dholepoor State, 20 miles south of Agra, has been maintained in good order, and some additional culverts have been constructed.

Improvements have been made to the approaches of the Goe River near Sindwa, the steep gradients of which offered a great obstruction to traffic.

Serious breaches were made in the northern part of this road by heavy floods in August 1873, near Munneah, 25 miles south of Agra, owing to the provision of insufficient waterway when the road was originally constructed.

Temporary diversions were at once made to restore communication, and the construction of culverts, providing the required waterway, was commenced.

Trestle and boat bridges in the dry season, and ferries during the rains, were maintained on the Nerbudda at Khull Ghât, 50 miles south of Indore, and on the Chumbul, near Dholepoor, 35 miles north of Gwalior.

The toll receipts for the year show a slight increase of traffic at Khull Ghât, and a very considerable increase of traffic between Gwalior and Agra.

The branch road from Dewass to Oojein, 23 miles in length, was completed, affording communication at all seasons between Oojein and Indore.

A commencement was also made on another branch road eastward from Dewass towards Ashta and Sehore, which will be a useful feeder to the Railway at Oojein and Indore.

The cost of both these branch roads will be defrayed from contributions and local funds.

6 *Mhow and Neemuch Road*—The portion of this road, now under the Central India Administration, is 90 miles in length from Mhow to the northern boundary of Rutlam, the northern portion of the road having been transferred to the administration of Rajpootana.

Consequent on the greatly reduced allotments for this road, expenditure has been concentrated on metalling the first twenty miles out of Mhow and completing the culverts in the first thirty miles.

The Dhar State having agreed to contribute half a lakh of rupees towards the construction of a bridge over the Chumbul River, 18 miles from Mhow on this road, a commencement was made with the foundations of three of the piers.

In the European infantry lines, the plunge bath and hospital guard room were completed, the walls of the prayer-room were raised to full height, and the ball court nearly completed.

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Consequent on the greatly reduced allotments for this road expenditure has been concentrated on metalling the first twenty miles out of Mhow and completing the culverts in the first thirty miles.

The Dhar State having agreed to contribute half a lakh of rupees towards the construction of a bridge over the Chumbul River, 18 miles from Mhow on this road, a commencement was made with the foundations of three of the piers.

A commencement was also made with the construction of a branch road to the town of Dhar, 12 miles in length, the cost of which will be defrayed by contributions from the Dhar State.

This branch road, with the Chumbul bridge, will complete the communication between Dhar and Mhow, and be a very useful feeder to the Railway at the last named station.

7. *Gwalior and Jhansi Road*.—This road, 65 miles in length, is now almost complete, the additional waterway having been provided, with the exception of one culvert remaining unfinished at the end of the year, the consolidation of metal collected in the northern portion of the road, and some improvements which still remain to be effected to the road through the Jowrassee Pass.

The bridge over the Morar River, 4 spans of 31 feet, which had been delayed by the difficulty experienced in sinking the foundation blocks, was satisfactorily completed during the year.

This road is now bridged throughout, with the exception of the Sind River, in the bed of which a pile bridge was constructed after the rains were over.

This will now be done every year, so that there will be no obstruction to the traffic during the cold weather, and arrangements are being made for the establishment of a proper ferry during the rains.

8. *Jhansi and Seepree Road*.—This road, 60 miles in length, was maintained in fair order. The provision of additional waterway in the Seepree section was completed, with the exception of one bridge, 29 bridges and culverts having been constructed.

Funds were not available for completing the metalling of the Jhansi section, the traffic on which is not, however, so heavy as that on the Seepree section.

9. *Jhansi and Calpee Road*.—The portion of this road under the Central India Agency, 48 miles in length from Jhansi to Ingooe, was maintained in good order.

Some additional waterway has still to be provided, the amount given when the road was originally constructed having been altogether insufficient.

10. *Jhansi and Nowgong Road*.—This road, 63 miles in length, was maintained in good order. The Sooknai bridge, 9 spans of 50 feet, was satisfactorily completed, and the bridge over the main escape from the Burwa Saugor Lake was built up to springing line.

The metalling of the fourth section from the Dussan River to Nowgong was completed, this work with the raising of the earthen sides affording considerable relief to the poor of that part of Bundelcund in the past season of scarcity.

A pile bridge was constructed in the Dussan River, affording an easy passage over the sandy bed during the dry season.

11. *Nowgong and Sutna Road*.—This road, 100 miles in length, passes through Chutterpoor, Punnah, and Nagode to the Railway Station at Sutna, and is the most important line now under construction in the north of Central India.

The first section, from Nowgong to Chutterpoor, is completely bridged and metalled, and has been maintained in good order

The second section, from Chutterpoor to the Kane River, is completely bridged, and metal has been spread and consolidated on the first 11 miles which pass over black soil, and the collection of metal for the other 19 miles of the section was commenced as a relief work

On the third section, from the Kane River to Punnah, good progress was made in the construction of the lower Punnah Ghât, the earthwork, catch water drains, revetment walls, and 21 out of 25 culverts having been completed

On the fourth section, from Punnah to Nagode, rapid progress was made in bridging the 14 miles from Nagode, and in the collection of metal for this portion which passes over black soil

Six bridges and culverts were altogether completed, three were complete, except parapets, six were raised to heights varying from 3 to 18 feet above beds of streams, including four bridges with from 60 to 90 feet of lineal waterway, and the foundations of three others were got in

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of the Sutna River was completed igrela
and Soonwarrah Nullas, both of

There remain two large bridges still to be constructed in this section, the Amrun bridge, the estimate for which has lately been sanctioned by the Government of India, and the Sutna bridge, the estimate for which has not as yet been submitted

The continuation of this road from Sutna to Bela on the Great Deccan road, funds for the construction of which are provided by the Maharaja of Rewah, was commenced late in the year, and some progress made with the earthwork and collection of materials

12 *Banda and Saugor Road*—This road has a length of 61 miles within the limits of the Central India Agency, from near Sreenuggur in the Humeerpoor District to the northern boundary of the Saugor District near Heerapoor

The first section, from Banda to Sreenuggur, is under the Government of the North Western Provinces

The second section, from Sreenuggur to Chutterpoor, has been maintained in fair order. It is metalled and bridged throughout, with the exception of the Oormul River, a causeway in which was nearly completed during the year

The third section, from Chutterpoor to Ungoor, is bridged throughout and metalled, and has been maintained in fair order

The fourth section, from Ungoor to Heerapoor, has been left in abeyance, funds and establishment having been concentrated on the road from Nowgong to Sutna

13 *Nowgong and Sreenuggur Road*—This road 20 miles in length, connects Nowgong with the Banda and Saugor road. It is bridged and metalled, and has been maintained in good order

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The bridge over the Morar River, 4 spans of 31 feet, which had been delayed by the difficulty experienced in sinking the foundation blocks, was satisfactorily completed during the year.

This road is now bridged throughout, with the exception of the Sind River, in the bed of which a pile bridge was constructed after the rains were over.

This will now be done every year, so that there will be no obstruction to the traffic during the cold weather, and arrangements are being made for the establishment of a proper ferry during the rains.

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The metalling of the fourth section from the Dussan River to Nowgong was completed, this work with the raising of the earthen sides affording considerable relief to the poor of that part of Bundelcund in the past season of scarcity.

A pile bridge was constructed in the Dussan River, affording an easy passage over the sandy bed during the dry season.

11. *Nowgong and Sutna Road*.—This road, 100 miles in length, passes through Chutterpoor, Punnah, and Nagode to the Railway Station at Sutna, and is the most important line now under construction in the north of Central India.

The first section, from Nowgong to Chutterpoor, is completely bridged and metalled, and has been maintained in good order

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Six bridges and culverts were altogether completed, three were complete, except parapets, six were raised to heights varying from 3 to 18 feet above beds of streams including four bridges with from 60 to 90 feet of lineal waterway, and the foundations of three others were got in

In the fifth section, from Nagode to Sutna, the causeway in the bed of the Sutna River was completed, as also the bridges over the Mongrela and Soonwarrah Nullas, both of which have three spans of 30 feet

There remain two large bridges still to be constructed in this section, the Amrun bridge, the estimate for which has lately been sanctioned by the Government of India, and the Sutna bridge, the estimate for which has not as yet been submitted

The continuation of this road from Sutna to Bela on the Great Deccan road, funds for the construction of which are provided by the Maharaja of Rewah, was commenced late in the year, and some progress made with the earthwork and collection of materials

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The first section from Banda to Sreenuggur, is under the Government of the North-Western Provinces

The second section, from Sreenuggur to Chutterpoor, has been maintained in fair order. It is metalled and bridged throughout, with the exception of the Oormul River, a causeway in which was nearly completed during the year

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13 *Nowgong and Sreenuggur Road*—This road, 20 miles in length, connects Nowgong with the Banda and Saugor road. It is bridged and metalled, and has been maintained in good order

14. *Nagode and Kallinger Road*.—This road, 35 miles in length, is only partially bridged, and has been maintained as a fair weather road. It will be taken in hand when other more important works have been completed.

In addition to the lines of communication above mentioned, there are several short roads at Morar and Gwalior which have been maintained in good order.

Altogether there are now 1,250 miles of road completed or under construction in Central India.

(Sd.) A. CADELL, Col., R.E.,
Chief Engineer for Central India.

REVIEW BY THE AGENT, GOVERNOR-GENERAL, CENTRAL INDIA, ON THE
ANNUAL PROGRESS REPORT OF THE CHIEF ENGINEER IN THE
PUBLIC WORKS DEPARTMENT OF THE ADMINISTRATION, 1873-74.

Rs.

1. The Imperial grant at disposal finally stood at ...	9,91,000
The expenditure from the above was ..	9,26,950
Contribution from Native States and Local Funds	1,89,709
The total expenditure on account of Public Works Department in Central India ...	11,16,659

The charge for establishment stands at 26 per cent. this year against 25·5 of last year. This high rate is due to the extended line of roads to be constructed or supervised, rendering reduction in proportion to allotment impossible. It has moreover happened that the Government of India in its general distribution of officers has placed on the establishment of Central India several whose standing and emoluments were in excess of the requirements. Officers who draw high pay according to grade and fill small places swell the charges and disturb averages.

MILITARY WORKS.

2. Special efforts have been made during the last dry season to free the Cantonment of Mhow from the water scarcity which has in each year been a matter of anxiety; old wells have been deepened and new wells sunk. The construction of permanent barracks for the horse artillery and heavy battery is in abeyance, awaiting the decision of Government respecting the fortified post. Many minor works for the comfort of the troops and the completion of the Cantonment were done.

COMMUNICATION.

3. One thousand two hundred and fifty miles of road are under construction or supervision.

Khundwah to Indore, 80 miles.—A first class road; in good order.

Agra and Bombay Road, 458 miles.—From the Candeish boundary on the south to Dholepoor, 20 miles south of Agra, on the north. This is in good order, with ferries working at the Nerbudda and Chumbul. The ferry receipts show an increase of traffic at both rivers.

14. *Nagode und Kallinger Road*.—This road, 35 miles in length, is only partially bridged, and has been maintained as a fair weather road. It will be taken in hand when other more important works have been completed.

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Mhow and Neemuch Road, 90 miles —71 miles of this from Neemuch to Jowra has been transferred to the Rajpootana charge

Since the Railway through Malwa has been in contemplation, the allotment for this road has been reduced so much that progress is slow, and it will be long ere the road can be of use to the States or the Government of India

Gwalior and Jhansi, 65 miles —This road has been greatly improved, and will in a few months be all that is desired

Jhansi and Seepree, 60 miles —In fair order, and quite up to requirements

Jhansi and Calpee, 48 miles, a portion under Central India, in good order

Jhansi and Nowgong, 63 miles —This road has been greatly improved The Sooknai bridge, 9 spans of 50 feet, completed

Nowgong and Sutna, 100 miles —This important road, which links Bundelcund with the East Indian Railway at Sutna, is progressing satisfactorily

Banda and Saugor, 61 miles, a portion under Central India, in fair order

Nowgong and Sreenuggur, 20 miles, bridged and metalled

Nagode and Kallinger, 35 miles, in fair order, formerly an important road, now little used, will be maintained

In addition to the foregoing, the Dhar State has contributed half a lakh of rupees to bridge the Chumbul on the Mhow and Neemuch road, 18 miles from Mhow, at the point where the direct road from Dhar, 12 miles, intersects

This road is also well under construction, funds having been supplied by the liberality of the Chief

The Maharaja of Rewah has supplied funds for a road between Sutna and Bela on the Great Deccan road, 23 miles, this work is well in hand

A branch road to connect Oojein with Dewas, 23 miles, has also been completed, and is a valuable help to the opium trade The funds were supplied by the Maharaja Sindia and the Rajas of Dewas

The continuation of this road towards Sehore is also in hand, and some progress has been made This will be an important railway feeder Many minor links are not noted

4 The Government of India is aware of the value the Agent to the Governor General attaches to the services rendered by his Secretary in the Public Works Department, Colonel Cadell, R E, Chief Engineer in Central India The briefest sketch of the works in hand in Malwa and Bundelcund, an area of 83,000 square miles, inhabited by people of various races not directly subject to the Government of India, will show that success and progress are not light things

(Sd) H D DALY, Major-Genl,
Agent, Gorr-Genl, Central I

Public Works from Local Funds, 1873-74.

Cantonments and Agencies.	Original works.	Repairs.	Total.	Works calling for remarks.
	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	
1. Indore ...	11,522 5 11	1,546 7 0	13,068 12 11	
2. Gwalior Agency ...	982 11 11	10 13 6	993 9 5	
3. Bhopal Agency ...	606 0 0	5,657 0 0	6,273 0 0	
4. Western Malwa Agency ...	751 14 7	851 4 3	1,603 2 10	
5. Bheel Agency ...	92 0 0	388 0 0	480 0 0	
6. Goona Agency ...	50 11 6	730 15 3	781 10 9	
7. Maunpoor Pergunnah (Road and Municipal Fund) ...	.....	273 10 11	273 10 11	
8. Bagheleund Agency ...	.....	.....	.....
9. Bundeleund Agency ...	2,311 2 4	2,379 10 7	4,693 12 11	
10. Mhow Cantonment ...	.....	.....	.....
11. Morar Cantonment ...	.....	4,308 8 9	4,308 8 9	
12. Neemuch Cantonment ...	315 3 0	461 2 4	806 5 4	
13. Nowgong Cantonment ...	1,551 6 4	2,029 15 7	3,581 5 11	
14. Sepree Cantonment ...	.....	272 0 0	272 0 0	
Total ...	18,216 7 7	18,919 8 2	37,135 15 9	

CHAPTER VIII.

POST OFFICES.

1. There have been only two cases of attempts to rob the mails reported this year: these occurred in the Schore Division, and were unsuccessful. The parcel mails are there accompanied by sowars and sepoys after dusk.

2. No Tabulated Statement of the issue and despatch of letters during the year under review can be furnished as the system of keeping a numerical return of letters has been abandoned. An approximate idea of the amount of correspondence passing through the Offices may be obtained from the annexed Statement:—

DIVISION.	Number of letters, papers, books, parcels, &c. &c., for despatch.	Number of letters, papers, books, parcels, &c. &c., for issue.	Total.	Cash Receipts.	Cash Disbursements.
				<i>Rs. a. p.</i>	<i>Rs. a. p.</i>
Indore Division ...	No return ...	2nd week, August 1873, 17,469; 2nd week, February 1874, 24,702.	42,171	57,558 1 10	24,752 14 0
Schore „ ...	Ditto ...	2nd week, August 1873, 4,821; 2nd week, February 1874, 5,813.	10,634	10,040 10 4	9,574 4 8
Bundeleund Agency ...	1,41,040.	1,47,869	289,818	7,917 11 11	5,251 10 6
Total ...	.....	.....	...	75,516 8 1	39,578 13 2

3 The average rate of conveyance of the mails (as reported from the Offices in Central India) is when by cart $10\frac{1}{2}$ miles per hour, and when by runners $4\frac{1}{2}$ miles per hour

4 The total reported receipts are Rupees 75,516-8-1, and disbursements Rupees 39,578-13 2

The receipts on account of staging bungalows in Central India amounted to Rupees 3,297-14, and the expenditure to Rupees 5,532 13 8

Staging Bungalow receipts and expenditure during 1873 74 in Central India

	Receipts	Total	EXPENDITURE			Total
			Establishment	Contingencies	Furniture	
	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>
Under the Public Works Department	3 221 6 0		3 404 8 0	102 6 7	1 601 15 1	5,198 13 8
Under the Political Agency	76 8 0	3 297 14 0	304 0 0	30 0 0		334 0 0
Total		3 297 14 0	3 708 8 0	200 6 7	1 601 15 1	5 532 13 8

CHAPTER IX

ELECTRIC TELEGRAPH

1 Mr Toulmin relieved Mr McGregor of the superintendence of the Indore Division on the 11th of March 1874

The working of the Telegraph in Central India has been satisfactorily carried on during the year

* The Offices at Mundisore, Jowrah, and Rutlam greatly facilitate opium traffic. The receipts of the Office at Indore rank first on the list

2 The annexed Statement will give details of the length of lines and the collections made at the various Offices. An approximately correct account or cost of working in Malwa has been obtained from the Indore Treasury accounts, it stands at Rupees 63,692 8 2, but does not include expenditure at Gwahor, Seepree, Beorah, or indeed at any station beyond Shajapoor on the Agra and Bombay road

The small Offices at Goona, Shajapoor, and Beorah are serviceable and if the returns are small, time will compensate, for the benefits of wire are greatly valued

Public Works from Local Funds, 1873-74.

Cantonments and Agencies.	Original works.			Repairs.			Total.			Works calling for remarks.
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	
1. Indore ...	11,522	5	11	1,516	7	0	13,068	12	11	
2. Gwalior Agency ...	982	11	11	10	13	6	993	9	5	
3. Bhopal Agency ...	606	0	0	5,667	0	0	6,273	0	0	
4. Western Malwa Agency ...	751	11	7	851	4	3	1,603	2	10	
5. Bheel Agency ...	92	0	0	388	0	0	480	0	0	
6. Gooma Agency ...	50	11	6	730	15	3	781	10	9	
7. Maunpoor Pergunnah (Road and Municipal Fund) ...	...	...	...	273	10	11	273	10	11	
8. Baghelkund Agency ...	...	...	...	...	...	...	...	...	...
9. Bundelkund Agency ...	2,314	2	4	2,379	10	7	4,693	12	11	
10. Mhow Cantonment ...	...	...	...	...	...	...	...	...	...
11. Morar Cantonment ...	...	...	...	4,308	8	9	4,308	8	9	
12. Neemuch Cantonment ...	315	3	0	461	2	4	806	5	4	
13. Nowgong Cantonment ...	1,551	6	4	2,029	15	7	3,581	5	11	
14. Seprce Cantonment	272	0	0	272	0	0	
Total ...	18,216	7	7	18,919	8	2	37,135	15	9	

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Total	75,516	8 1	39,578	13 2

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The receipts on account of staging bungalows in Central India amounted to Rupees 3,297-14, and the expenditure to Rupees 5,532-13-8

Staging Bungalow receipts and expenditure during 1873-74 in Central India

	Receipts	Total	EXPENDITURE			Total
			Establishment	Contingencies	Furniture	
	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>
Under the Public Works Department	3 231 6 0		3 404 8 0	192 6 7	1 601 15 1	5 198 13 8
Under the Political Agency	78 8 0	3,297 14 0	304 0 0	30 0 0		334 0 0
Total		3 297 14 0	3 708 8 0	222 6 7	1 601 15 1	5,532 13 8

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2 The annexed Statement will give details of the length of lines and the collections made at the various Offices. An approximately correct account or cost of working in Malwa has been obtained from the Indore Treasury accounts, it stands at Rupees 63,692 8 2, but does not include expenditure at Gwalior, Seepree, Beorah, or indeed at any station beyond Shajapoor on the Agra and Bombay road

The small Offices at Goona, Shajapoor, and Beorah are serviceable, and if the returns are small, time will compensate, for the benefits of the wire are greatly valued

*Statement showing length of line, &c., of Government Telegraphs in the
Central India Agency for the year 1873-74.*

LENGTH OF LINE.		MILES.		No. of Offices.	COLLECTIONS.	
From.	To.	Line.	Wire.		Offices.	Amount.
						<i>Rs. a. p.</i>
Indore	Khundwa ...	81	223	1	Indore	13,303 4 0
Do.	Mhow ...	15	16	1	Mhow	3,169 14 0
Do.	Neemuch ...	153'64	153'65	4	Rutlam	2,059 12 0
					Jowrah	1,382 8 0
					Mundisore ...	2,310 0 0
					Neemuch	2,098 11 0
Do.	Agra ...	265'71	400'61	6	Shajapoor ...	675 0 0
					Beorah	331 6 0
					Goona	323 4 0
					Gwalior	2,719 0 0
					Morar	2,268 0 0
					Dholepoor ...	918 0 0
Do. (Dewas) ...	Oojain ...	23	23	1	Oojain	2,275 13 0
	Total ...	657'39	820'29	...	Total	34,774 4 0

3. The new line being constructed along the Holkar's State Railway *via* Mhow is expected to complete in the course of a few months; the portion between Khundwah and Morgerry has been brought into circuit, and the corresponding portion of old road line dismantled.

It is contemplated erecting a new line along the State Railway in places of the existing road line to Neemuch, which will be dismantled; but these changes will not be carried out this year, as the scheme still awaits the sanction of the Government of India.

An estimate for the extensive repairs of the line from Indore to Gwalior has been recently sanctioned, and arrangements will be made for getting the work done during the ensuing working season after the rains.

The Mortukka Office, opened by the Railway Department, 22nd December 1873, was closed on 31st January 1874, when it was no longer required by them in consequence of their Office at Sanawad having been opened. The Office was, however, re-opened by the Railway Department from the 1st April conjointly with the opening of the Railway extension from Sanawad to Mortukka, and that department continues to work it up to the present time.

Soldier signallers are employed at Morar and Neemuch, none available at Gwalior or Mhow.

The total strength of the force is—

1 Regiment, European Cavalry	...	...	496
4 Regiments, Native Cavalry	...	...	2,148
8 Batteries Artillery	...	...	1,027
2 Regiments and Detachment, European Infantry	...	...	2,268
8 „ two Detachments, Native Infantry	...	...	6,516
Total			12,455

2. *Central India Horse*, of which Colonel Watson, V.C., C.B., is Commandant, has been under the command of Major Martin since April last year. The regiments are in admirable order, well mounted, and well appointed—Sikhs, Pathans, Dogras, Jats, and Mahomedans of Hindoostan are in the ranks. The General Officers at Mhow and Gwalior review the corps yearly, and their reports confirm all that can be said of this fine body of cavalry.

Their presence in Central India supports order, and is an example to the Native States of the discipline which British officers can establish.

The British and Native Officers are valuable to the Government of India in the maintenance of friendly and pleasant relations with the Chiefs and Rulers of the country; they are known to all.

The 1st Regiment, Central India Horse, relieved the 2nd Regiment at Goona in October, the 2nd Regiment marching to Augor. Some 30 sabres of the 1st Regiment have been employed under a Commissioned Officer in the suppression of gangs of dacoits in Tehree and Lullutpoor. The health of the regiments has been good.

3. *Bhopal Battalion*.—The head-quarters of this regiment are at Sehore. The average strength is returned at 914 men during the year, with 514 effective at head-quarters; of these 114 were on duty daily; 21 detachments or 612 men proceeded on command or escort duty. The health of the regiment has been fair, but 13 deaths were reported. The average of sick during the year has been 1·8 per cent. The conduct of the men has been satisfactory.

Major-General Montgomery, C.S.I., inspected the regiment in November 1872 and recorded his satisfaction at the result of his inspection.

His Highness Maharaja Sindia held a Camp of Exercise in February. He had 3,000 infantry, 1,600 cavalry, and 28 guns in the field.

4. *Malwa Bheel Corps*.—The head-quarters of this regiment are at Sirdarpoor, and its total strength is returned as 592* or 597 of all ranks.

* A slight discrepancy in the Returns.

It is composed of men of the following castes :—

Bheels	...	...	...	...	348
Bhilalas	...	...	...	...	5
Naiks	...	...	...	...	125
Brinjaras	..	...	...	...	10
"Other castes"	...	...	...	...	104
Total					592

One hundred and thirty-five men of all ranks are permanently absent on detached duty and are thus returned —

58 Satpoora Hills	}	Relieved every six months
52 Rajpore		
5 Burwanie		
15 Rutlam	}	Relieved monthly
5 Dehree		

As a temporary measure, a strong detachment was this year stationed on the northern frontier of the Bhopawur Agency to check the raids of the Kooshulghur Bheels on Jhabooa

Major General Montgomery, C S I, reviewed the regiment in March, and expressed satisfaction at the improvement effected. The Governor bore by entail ex marks that this will the 2nd in Command on permanent political duty will be felt

The 2nd in Command is never at head quarters, he is the Deputy Bheel Agent at Maunpoor

CHAPTER XI

MISCELLANEOUS

SECTION I — *Boundary Disputes*

1 The Political Agent, Western Malwa, reports that Lieutenant Durand settled 17 cases of boundary dispute during the year under review. Of these eight cases were in the Bheel country of the border between Rutlam, Kooshulghur, and Banswarra, forming an almost continuous boundary line of 30 miles.

The delay of the Banswarra Durbar caused the officer deputed to be detained uselessly, and lost about six weeks of working time, he was finally compelled to leave the frontier, not, however, until he had killed three magnificent tigers. It is no light matter that the boundary officer should be a sportsman. In thus mixing with the people friendship springs up which helps business and throws light on disputes, &c

Two cases were also settled by the Native Assistant Agent, Governor General, Pundit Suroop Narain, between the two States of Dewas

In Bundelcund ten cases were settled. The transfer of Captain Blowers, however, interfered with the work.

In Bhopawur no new disputes are reported to have been settled, but three appeal cases of former years have been finally demarcated.

In Bhopal Captain Dalrymple decided 34 cases during the year

In Maunpoor the boundary between the 47 Paras and Indore has been laid down, and pillars erected.

Pillars have still to be built on the boundary of Pergunnah Dektan (Naie Baroda village).

In the Bagode Pergunnah, Dewas, there are 11 disputes pending with the Indore Durbar. The six cases settled here have still to be marked out, and the masonry pillars to be erected.

SURVEYS.

2. A survey of 43 miles for the road between Augur and Oojein has been made. It will be a feeder to the Railway with which the Political Agent, Western Malwa, hopes to see it simultaneously constructed. But until there is palpable evidence of the Neemuch Railway, something more than earthwork for a few miles, Native States will not move in making feeders.

The trigonometrical survey is now working in Western Malwa, and reports from Bhopal show that there also the stations are kept in repair.

SECTION II.—*Hospital and Dispensaries.*

3. The following table shows the cost and the working of the hospital and dispensaries under the Agency during the year under review :—

NUMBER AND LOCALITY.	DURING 1873-74.			
	Admissions.	Number of Deaths.	Number of Vaccination.	Cost.
64, under British supervision	84,438	759	38,559	Rs. 38,988
Bhilsa	2,452	5	580	2 9 567 1 4
Taking into account 31 in Native States, Bundelcund, which give Returns under the head vaccination only, which is under supervision, there are no other Returns from these 31 dispensaries.				
Total ...	86,890	764	39,139	39,555 4 1
13, not under British supervision ...	22,501	213	9	4,694 13 5
Total ...	22,501	213	9	4,694 13 5
Grand total ...	109,391	977	39,148	44,250 1 6

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4 The hospitals and dispensaries under the supervision of			
Indore	2		
Oojein	1		
Rutlam	1		
Dhar	1		
Dewas	1		
Augur	1		
Baglee	1	} from these only Vaccination Re turns	} 1 272
Jowra	1		
Shajapoor	1		
Mhow	1		
Bhopawur	3		
Maunpoor	3		
Bundelcund	1		
Native States Dis		} Vaccination Re pensaries 31 } turns only	} 28 454
Baghelcund	5		
Gwahor	4		
Bhopal	6		
Total	64		

the Agency are noted in the margin There are 13 also unsupervised by Medical Officers of the Agency The total admissions under British supervision are 86,890, number of deaths 764 or 0.87 per cent

These institutions show a very fair attendance during the year, which has been a very healthy one throughout Central India There are, however, 125 deaths reported from Nagode and Sohawal, which were mostly due to a cholera epidemic which broke out there

The number of vaccinations reported are in institutions under British supervision 39,139, and in Native States only nine are reported

In the 31 Native States of Bundelcund, which are this year entered as under supervision, there are 28,454 vaccinations reported, as against 23,003 reported last year Adding however the two Returns of supervised and not supervised dispensaries together, we obtain the sum of 30,832 people vaccinated last year in Central India, and 39,148 this year, a very marked increase A considerable amount of prejudice still exists amongst the populations of the Native States against vaccination This is, however, being gradually overcome, as the benefits arising from it become every year more apparent, and in several States the Chiefs themselves have been vaccinated, and caused their children to be vaccinated Adjeyghnr, Punnah, Kotee were conspicuous in this, and the mother of the infant Chief of Chutterpoor asked for vaccination on him

Dr Stratton takes an earnest interest in this question, and it is to his exertions that the success in Bundelcund is due

5 The cost of the maintenance of these institutions under British supervision, a large part of which is necessarily borne by Native States, amounts to Rupees 39,555-4-1, and the cost of those under Native supervision is only returned at a sum total of Rupees 4,694-13 5, the cost of maintenance of the establishments at Jowra, Myhere, and the eight in Bundelcund is not however given At Gwahor, Maharaja Sindia has caused the Lushkur Dispensary to be moved to a very fine building in an open situation on high ground which he has given for the purpose The Morar Dispensary is supported by local funds at a cost of Rupees 412-7

6 The Augur Dispensary is daily visited by Dr Keegan, whose skill and kindness make it a popular institution

7 The Goona Dispensary receives Rupees 98 per mensem from His Highness Maharaja Sindia This fund, supplemented by donations from Chiefs and local funds, is still found inadequate to meet the

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Oojen	1		supervised by Medical Officers	of the Agency. The total ad-
Rutlam	1		missions under British super-	vision are 86,890, number of
Dhar	1		deaths 764 or 0.87 per cent.	
Dewas	1			
Augur	1			
Baglee	1	} from these only } } Vaccination Re } } turns }	1,272	
Jowra	1			
Shajapoor	1			
Mhow	1			
Bhopawur	3			
Maunpoor	3			
Bundelcund	1			
Native States Dis		} Vaccination Re } } turns only }	23,454	
pensaries	31			
Baghelcund	5			
Gwalior	4			
Bhopal	6			
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5 The cost of the maintenance of these institutions under British

There are no Returns rendered of the expenses of maintenance of the establishments at—

Jowra (3)
Bundelcund (31)
Baghelcund (5)

supervision, a large part of which is necessarily borne by Native States, amounts to Rupees 39,555-4-1, and the cost of those under Native supervision is only returned at a sum total of Rupees 4,694-13-5, the cost of maintenance of the establishments at Jowra, Myhere, and the eight in Bundelcund is not however given. At Gwalior, Maharaja Sindia has caused the Lushkur Dispensary to be moved to a very fine building in an open situation on high ground which he has given for the purpose. The Morar Dispensary is supported by local funds at a cost of Rupees 412-7.

6. The Augur Dispensary is daily visited by Dr. Keegan, whose skill and kindness make it a popular institution.

7. The Goona Dispensary receives Rupees 98 per mensem from His Highness Maharaja Sindia. This fund, supplemented by donations from Chiefs and local funds, is still found inadequate to meet the

expenses which should be incurred for the proper treatment of the numerous patients who come for advice.

Nine hundred and forty-seven patients were admitted and treated, 1,321 vaccinated; the number of deaths was 35. This is high, but poor pilgrims to and from Oonkarnath come for help in the last stages of disease.

Dr. Keegan's, Dr. Harvey's, and Dr. Edi's services are highly spoken of by the Political Assistant.

It is to the Medical Officer of the Central India Horse that these admirable institutions owe their fame—Augur in Malwa, and Goona midway between Mhow and Gwalior. Sindia has always been ready to give aid when needed.

8. The Report of the Residency Surgeon, Dr. Beaumont, on the Malwa Dispensaries is annexed.

There is no institution in Native States more thoroughly beneficial than this. Year by year its hold strengthens on the people. The labour, patience, and ability daily displayed by Dr. Beaumont bring their own reward.

The Deputy Surgeon-General, Dr. Ross, of the Jubbulpoor Circle, an officer of wide experience and known character, bears warm testimony to the admirable working of the dispensary at Indore, and it is a matter of pleasure to watch the throng pressing to seek the English Doctors.

Dated Indore, 27th July 1874.

From—Residency Surgeon, Indore, and Superintendent, Malwa Charitable Dispensaries,

To—Agent to the Governor-General for Central India.

I HAVE the honor to submit the Annual Returns of the Malwa Charitable Dispensaries for the year 1873, which show a total treated of 16,939, an increase of 1,632 in the previous year.

2. In Malwa the year has been a fairly healthy one. Cholera has not been heard of, or any epidemic disease, except a little dengue at Indore, where it broke out in October, during which and the following month probably as many as 500 cases of it occurred in the city, and about one hundred cases in the Station of Indore. The disease was of a comparatively mild type, and seemed to have lost much of its epidemic force, for instead of, as ordinarily, attacking nearly the entire household in which it occurred, as a rule, but one or two of its members suffered from it. Dengue did not spread to the neighbouring towns or villages, but died out at Indore.

3. Phagedenic ulcers have been more prevalent than ever, and may now be considered established as an endemic on the Vindhya range of hills from the Simrole Ghât eastward to where the range ends in the Zymoor Hills in the Rewa State. Westward of Simrole they are not known, nor are they on the Satpoora Hills, which form the southern boundary of the Nerbudda River valley, as the Vindhyas do on the north.

What can have determined the establishment of such disease as endemic, or why it should prevail on the Vindhya and be unknown on the Satpooras, which ranges even parallel and in sight of each other for hundreds of miles, is a mystery. With regard to treatment, I have nothing new to suggest. Nitric acid is still the only trustworthy remedy. When the disease has progressed so far as to leave no hope of recovery, amputation should be resorted to early, while the patient has strength to recover from the operation. Unfortunately too often those suffering from it will not submit to operation till in a hopeless state.

4 I have great pleasure in bringing to your notice that the much felt want of a leprosy hospital at Indore has been met by the benevolence of His Highness the Maharaja of Dhar, who has given the handsome sum of Rupees 12,500 towards it, Rupees 10,000 in Government 4 per cent paper as an endowment, and Rupees 2,500 to build the hospital. The building is now nearly completed, it consists of a range of ten neat substantial little rooms, double tiled, with a verandah all round. The number of patients will at first be restricted to ten, so each patient will have a separate room, but if happily the funds of the hospital should be increased so as to permit it, two patients can be accommodated in each room. The hospital has been built outside the compound of the Charitable Hospital, but close to it, so that it will be managed by its staff, and thus no expense will be incurred except for the food, medicines, and necessaries of the patients. The interest of Rupees 10,000 will thus about suffice for the support of ten patients.

5 *Vaccination* —The Returns of all the dispensaries for the year shows a respectable increase of the total vaccinated, 3,093 compared with 2,138 last year. The average work of each vaccinator was nearly one-third more than last year, and all the cases were verified by one of the intelligent I have promoted to be supported from the local authorities.

6 *Indore Charitable Hospital* —This institution continues to gain on the public confidence, as will be seen from the following Return showing the numbers resorting to it for the treatment of more serious forms of disease or injury by operation —

MAJOR OPERATIONS

	Cases	Cured.	Died.
1869	33	32	1
1870	44	44	
1871	48	47	1
1872	61	61	
1873	115	110	5

From this it may be seen that the results of operations are such as should secure confidence. In four years, 1869, 1870, 1871, 1872, but two operation cases died, and in 1873 the Return would have been quite as favorable had there not been so many desperate cases of enormous sloughing sores, the only chance of saving which was by amputation. Of these there were 17 amputations, 16 of leg and 1 thigh, with 13 recoveries and 4 deaths. This, though an unusual mortality for this hospital, is very favorable, considering the disease the operations were

undertaken for; indeed, it might be considered so under any circumstances, seeing that the average mortality in the London hospitals of all amputations of the leg is 25 per cent. Besides these 17 cases there were 11 amputations for ordinary causes, all of which were successful.

7. Cases of cataract and other important diseases of the eye continue to come in increasing numbers. During the year there were 40 major operations on the eye, of which 25 were cataract extractions. In addition to this I operated eight times for cataract when visiting the dispensaries. One of these a double operation in the family priest of His Highness the Raja of Dhar. The Raja took great interest in the operation, and asked me to do it before him in the palace. The result was excellent in both eyes. This gave cataract operation a good start in Dhar. I had two others to do before leaving, and again two when I visited the dispensary in December: besides these several cases have come from Dhar to hospital for operation.

8. *Tetanus*.—Three cases of traumatic tetanus were treated during the year, all with hydrate of chloral: of these two recovered and one died. I have now treated in all seven cases with chloral—results, five recoveries, two deaths. Of the deaths but one is fairly attributable to the disease. In the other case tetanus was consequent on serious injuries from falling into a well producing fracture of three ribs and wound of the lung, which injuries were directly the cause of death, any injury of the respiratory organs being a particularly dangerous complication in tetanus. The hydrate of chloral was given every six hours in doses sufficient to relax the jaw and control the tetanus spasms; to do this from 25 to 30 grain doses were necessary, which were reduced after 48 hours, as soon as the spasms were fairly controlled, to 20 grains: these were continued from two to three weeks, after which the dose was reduced by degrees according to the symptoms, till it was found possible to stop it altogether. Under the 20 grains doses the patient sleeps almost constantly, awaking only a short time before the next dose is due; on awaking he is fed, given another dose and goes off to sleep again. Except careful feeding to support the strength, and an occasional purgative, no other medicine was found necessary.

Besides sleep and relaxation of the tetanus rigidity and spasm, considerable loss of flesh was the only marked effect of the prolonged use of chloral.

9. *Intermittent and remittent fevers*.—I now treat almost exclusively by subcutaneous injection of quinine, and the greater my experience of this mode of administering it the more I am satisfied with it, so well known and so much appreciated is it here that within the past two years the number of fever cases coming for treatment to this hospital is increased 50 per cent., and this too while fever has been less than ordinarily prevalent. Patients now (even women) frequently present themselves saying "I have got fever and want to be injected." I use only the neutral sulphate of quinine for injection, for which I have employed it nearly 3,000 times without a single case of suppuration. The superiority of this mode of administering quinine is especially seen in the treatment of the more severe forms of fever. Remittents commencing as such are rare here, but cases are frequent where from absence of all treatment the disease has run on into a bad remittent, and the patient is carried to hospital in a more or less insensible state, often profoundly so,

tongue brown and dry, teeth and lips covered with oxides, eyes blood-shot, hot, dry skin, pulse frequent, soft and fluttering Quinine given by the mouth in such cases is not sufficiently active, and apparently before it has time to take effect the majority of them die Injected, it passes almost at once into the current of the circulation, and in a few hours an improvement is seen in the state of the patient. In such cases I inject as much as six to eight grams, and repeat the injection as often as three or four times if necessary

10 Mr Gunput Sing has proved a most valuable Assistant to me in this hospital He was formerly a pupil in it, I seeing he was very intelligent, trustworthy, and hardworking, sent him to the Grant Medical College, Bombay, where he attended the Sub Assistant Surgeon's Classes for two years, during which he worked very hard and made the best possible use of his time, acquiring a well grounded knowledge of his profession Since his return early in the year he has worked honestly and well in the hospital, and been most careful, attentive, and kind to the patients

11 *City Indore Dispensary*—Here the attendance continues large, the Native Doctor is a steady working man and very popular No large operations are done, as it is more convenient to send them on to be performed at the Charitable Hospital in the Station, where they can be treated as in patients A more suitable building is much wanted for the dispensary The dwelling house at present rented for the purpose does not afford waiting room for the patients, and is altogether unsuited for a dispensary His Highness the Maharaja would confer a great benefit on his subjects by erecting a more convenient building for their treatment when sick

12 *Ruilam Dispensary*—The work here has been carried on vigorously by Native Doctor Thakoor Deen, and the Return shows a large increase in the attendance, and importance of the work done Thakoor Deen performed 12 major operations during the year, two of these were amputations of the thigh, all of which were successful

13 *Dhar Dispensary*—There is, a fair increase in the number of patients for the year The Native Doctor is attentive to his duties, and has secured the confidence of His Highness the Maharaja and the people generally The house used as a dispensary being very small and inconvenient, the Raja has with his usual benevolence undertaken to erect a more commodious building for its accommodation, which is now in course of construction

14 *Oojain and Dewas*—Here the Native Doctors carry on the work in an ordinary sort of way, not pushing it very much Important surgical cases they send to Indore to be treated by me

15 *Augur Dispensary*—Here the admissions for the year, 3,096, are almost exactly the same as last year, 3,074 During the year four major operations were done by Dr Keegan, of the Central India Horse, as he, since his arrival at Augur, takes a very active interest in the dispensary Its Returns for the next year will, I have no doubt, show a considerable increase in the number and importance of the cases treated

(Sd) T BEAUMONT, M D & F R C S I,
Residency Surgeon, Indore

SECTION III.—*Studs.*

There are two Studs in Central India, both of which are favorably reported upon. It is a pity that the experiments cannot be carried on on a larger scale. The Central India Horse Regiments relieve each other and are never moved out of Malwa: thus every facility for horse breeding is at hand with experienced officers, who know every Chief and Thakoor.

One is at the head-quarters of the 1st Central India Horse at Goona, the other at the head-quarters, 2nd Central India Horse, at Augur. At Augur there are three stallions, two Arabs, and one stud-bred. Major Martin reports having lately obtained a pure bred Kattywar horse to replace a worn-out Arab; he will be very popular in Malwa.

The climate is favorable, and in times past, before the country was harried, the breed of horses was famous; there are still fine mares to be seen, for the old taste is alive in the Rajpoots.

The extension of the scheme is well worth attention, the expense is *nil*, merely Rupees 30 per mensem for the food of the stallion.

One hundred and thirty-seven mares have been covered, and a Non-Commissioned Officer is sent round the districts occasionally to report on the results.

There is a prejudice against breeding mules which the Political Agent says it is impossible to overcome.

At Goona there are one high caste grey Arab and one young stud-bred from Buxar; their services are in great request among the neighbouring Zemindars, and they have made several tours in the districts.

Several fine mares have also come in to be covered.

Captain Buller expects an English thorough-bred shortly, whose services he thinks will prove of great value. This is Thorndale, a grand horse in every way; he ought to get good stock.

(Sd.) H. D. DALY, *Major,*
Agent, Govr.-Genl., for Central India.

APPENDIX A.

Dated Gwahor Residency 11th April 1874

From—Officiating Resident at Gwahor,

To—Agent, Governor General, for Central India, Indore

I HAVE the honor to submit the Annual Report of the Gwahor Agency for the year 1873-74

On the 11th January Major Impey, the Officiating Political Agent, was compelled by ill health to leave suddenly, he made over the Agency to Colonel Wright

On the 7th February I received charge from Colonel Wright, my report must consequently be deficient in details

I was received on my arrival very cordially by the Maharaja and his officials

The crops have been good in some districts the mukka and jowar on low ground were destroyed by the heavy rain in September, but the ground was speedily re ploughed and gram sown in their place.

The Maharaja having agreed to try the cultivation of the *Eucalyptus Globulus* (Australian blue gum tree) I have obtained some seed from the Neilgherries, the plants are growing, and when fit for transplanting some will be put out in Morar and the rest sent to the Durbar

The total rain fall during the year was 49.3 inches

The general health has been good There has been some small pox for some months in the Lushkur and the surrounding districts, but it has not been very severe

Justice—There have been five cases of dacoity during the past year, in no case have the offenders been apprehended

There have been no attacks on Her Majesty's mails

The bullock train was attacked and robbed on the 29th December, no guard having accompanied it, though ordered by the Durbar

In the Cantonment Magistrate, Civil Judge, and Small Cause Courts, ably presided over by Colonel Wright with Lieutenant Martelli as his Assistant, there have been 185 criminal cases and 797 civil suits disposed of. There have been only two appeals

The average duration of each criminal case was 1.52 days, and that of each civil suit—

In the Small Cause Court

1.13 days

" Civil Court

1.33 do.

Hitherto much inconvenience and loss have been suffered by the inhabitants of Morar in consequence of thieves and others escaping into Gwalior territory. I have entered into an arrangement with this Durbar for the apprehension of such offenders which, in the opinion of the Officer Commanding the District, will tend to mitigate if not entirely put an end to the evil complained of.

Treasury.—The Treasury is in the Military Cantonment, and the Assistant Cantonment Magistrate is the Treasury Officer. The Political Agent, however, is held personally responsible for it—an anomalous arrangement—which will form the subject of a separate report.

The executive duties have been very satisfactorily performed by Lieutenant Martelli. The total receipts during the past year amounted to Rupees 21,28,828-10-8,* and the expenditure during the same period to Rupees 26,48,101-8.†

* Exclusive of balance on 1st April 1873, Rupees 7,67,071-13-11.

† Balance on 31st March 1874, Rupees 2,47,799-0-7.

The total number of money orders issued was 2,298: of these 149 were overland orders. The total value of money orders issued was for inland orders Rupees 66,168-5, overland orders Rupees 9,732-5-5.

Inland money orders to the number of 410 of the value of Rupees 23,363-8 and 2 overland orders amounting to Rupees 34-8 have been paid at the Treasury.

Jails.—The number of prisoners admitted into the Morar Jail was 116. Of these 37 being under sentences beyond six months were transferred to Agra.

The new Residency Jail has been completed and a separate report regarding the establishment, &c., for it was submitted on the 29th July last. No reply having been received, and no guard or establishment having been sanctioned, the prisoners have not yet been put into it. Unless soon occupied the white ants will do much damage to the timber.

When the necessary orders have been issued there will be a saving to Government, as prisoners under sentences of 12 to 15 months can be retained in it, instead of being forwarded to Agra.

Dispensaries.—Owing to the want of proper and careful supervision the state of the dispensaries is most unsatisfactory. The Native Doctors, not being liable to inspection, neglect their duties. During the past two years there have been no vaccinations at Gwalior. I have however insisted on the Native Doctor and his Assistant making vaccinating tours. During the past two months 229 children have been vaccinated. The Native Doctor's reports are verified by the Durbar officials.

A proposal was submitted to Government on the 11th January last for the better supervision of these institutions which I trust may be carried out. Should it be, I have no doubt vaccination will steadily make way among the people and the dispensaries become a blessing to the masses.

The Returns received from the various dispensaries show the following results:—

NAME	Admissions	Vaccinations	Cost
			<i>Rs a p</i>
Lushkur	7,099		3 081 5 9
Seepree	829		592 8 9
Goonah	947	1 321	1 762 4 11
Jawal Neemuch	4,030	9	1,740 15 9
Blusa	2 452	580	567 1 4
Morar	1,677	38	412 7 0
Total	17 034	1 948	8,156 11 6

The dispensary at the Lushkur was quite close to the Maharaja's Palace and within the limits of the future garden, it has therefore been removed at the Maharaja's desire. A very fine building, on a hillock in an open situation, has been given by the Maharaja for the purpose.

At present it is a little far from some parts of the city, but when the new palace is completed and the intervening space built upon, the situation will be excellent in every way.

The Morar Dispensary supported by Local Funds shows the following results —

Patients treated	1 677
Vaccinations	38
Cost	Rs 412 7 0

Public Works —The Gwahor Durbar contribute annually Rupees 75,000 for roads of this sum Rupees 12,000 are allotted for the repairs of the Agra and Bombay Road.

The contribution for 1873-74 has been expended thus—

	<i>Rs</i>
Gwahor and Jhansi Road	31 500
Jhansi and Seepree	15 000
Mhow and Neemuch	4 000
Repairs, Agra and Bombay Road	9 000
Establishment	19 000
Total	78 500

The Blind Road, which will connect Gwahor with Etawah, and which will open up several Gwahor districts, is to be taken in hand this year. The Maharaja is very anxious to have this road completed.

The Durbar has placed the ferry over the Sind river on the Jhansi Road under the Public Works Department on the same terms as the ferry over the Chumbul on the Agra Road.

The new telegraph line from Indore to Oojem, costing Rupees 25,481-7-6 paid for by the Durbar, has been completed.

The Maharaja's palace is still under construction, it is to be finished by May 1875. It will be a fine imposing-looking building when completed.

Military.—The Maharaja had a Camp of Exercise in February, the troops as marginally noted were under arms.

28 Guns.	
1,600 Cavalry.	
3,000 Infantry.	

The Maharaja was so pleased with their efficiency that he promoted Brigadier-General Bapoo Awar Saheb to the rank of Major-General.

The health and conduct of the troops were excellent.

Administration.—The settlement of the Malwa and Esaghur Districts is not yet completed.

The Dewan, Lieutenant-Colonel Gunput Rao Dada Saheb Khurkey, has performed his duties to the satisfaction of the Maharaja, and has cordially co-operated with me, freely discussing all questions with me personally.

The Durbar Vakeel, Hukeem Ahsan Alli, has been of great assistance.

In May 1873 the Naeb Dewan, Basdeo Ram Chund, resigned and Ram Chund Bhajee Rao was appointed in his place.

Post Office.—The Post Office is to be located in a building in the Residency limits.

There has been one complaint against the Post Office officials during the year.

The value of stamps supplied to the Durbar from this Office was Rupees 1,587-8.

Education.—The Maharaja keeps up an Educational Department consisting of one Director and two Inspectors. There is a College in the Lushkur, and there are 93 schools of various grades in the districts. At the College about 600 boys, 50 of whom are learning English, are being educated, and in the District Schools about 3,500.

The Morar School is supported by voluntary contributions. The receipts do not meet the expenditure; the matter has been made the subject of a separate report. The number of pupils attending the classes has been 54 daily, and the expenditure Rupees 918-4-6 per annum.

Unless this school is aided by a grant from Government it will have to be materially reduced.

GUARANTEED THAKOORS.

Dharia Kheree.—The Durbar has granted at an enhanced rate to Ranjeet Sing, son of Sheodan Sing, the two villages held by his father, the Thakoor to come to Gwalior to receive the Sunnud.

Sirsee and Mhow.—The Durbar has brought several complaints against this Thakoor. He has been warned and cautioned against giving ground for complaint.

Seetamhow.—This petty Chief applied to be permitted to spread the payment of his tribute due over the next five years. The Durbar refused to comply with his request.

Agra Burkaira.—The case of this Thakoor, subordinate to the Bhopal Agency, is still under the consideration of the Durbar.

APPENDIX B.

ADMINISTRATION REPORT OF THE BHOPAL AGENCY FOR THE YEAR 1873 74

GENERAL REMARKS

THE past year 1873 74 appears to have been one of at least average prosperity, the general health has been good, and there has been no outbreak of any epidemic if small pox be excepted this disease has carried off numbers of children in Nursinghur and other places during the past cold season

The rain fall registered was 43 5 inches, and the autumn harvest is said to have been up to the average The spring crops, wheat, gram, and opium have been good, more especially the latter, it is a fortunate peculiarity of the soil in Malwa that wheat and gram flourish and ripen without irrigation even when the usual winter rains are withheld, a state of circumstances under which unirrigated tracts in the North-Western Provinces suffer severely This year winter rain can hardly have been said to have fallen at all in this part of the country so slight and local were the showers As might be expected in a season of average cheapness and plenty the general tranquillity has not been disturbed by any abnormal increase of crime, there have been no cases of suttee sumadh, nor have Her Majesty's mails been attacked during the year within the limits of this Agency

Dacoities and highway robberies have not been unfrequent, especially on the highways which cross the Vindhya range, viz, the roads between Bhopal and Hoshungabad and Bhopal and Hurda where there are miles of jungle The State of Bhopal suffers most from this class of offences, and though the Bhopal authorities urge that the perpetrators are seldom subjects of Bhopal, it is not the less incumbent on them to guard the
ditional force has been
, as will be seen from
to be hoped that they
ey have been raised
The Bhopal authorities are most anxious to put down this class of offences, and surely this might be done by a well organized system of reporting by villagers the assemblage of any suspicious strangers and by efficient patrolling

Civil Justice —The number of cases disposed of are 515 The Superintendent of the bazaar has jurisdiction in all cases up to Rupees 100, an appeal lying to the Political Agent's Court. The usual of decision is by arbitration

243 criminal cases were disposed of leaving only two pending at the close of the year; it may not be out of place here to observe that witnesses in criminal cases appear much more truthful here than in the North-Western Provinces, and the imputation of falsehood often raises a genuine feeling of scorn and anger; whether this is attributable to difference of race, or to the absence of the low middlemen, who infest the Criminal Courts of the North-Western Provinces and tutor the witnesses, I cannot say.

As for the attendance never exceeding one day, I believe no register of attendance is kept up; the witnesses remain with their respective Vakeels until called upon to give evidence and may be some days present before the accused person is brought up for trial: of the five escapes entered in Criminal Statement B., four were from Native State officials and one from the Sehore Jail.

Education.—The Sehore High School has not only been in existence many years in its present shape, but has grown out of a school founded in 1818 by Major Henley, and is consequently coeval with the Agency.

The average daily number on the register is 245.38, and the average daily attendance 211.97 or 86 per cent., a very high percentage.

Formerly a class of the sepoy of the Bhopal Battalion used to attend the school, but for the last three or four years they have been instructed in their own lines, and deducting their numbers from the total number of the school, the number of scholars has been about stationary for some few years.

Each boy must learn either Oordoo or Hinddee to entitle him to be entered in the English classes, and thus a certain knowledge of his own vernacular is secured.

Up to 1857 there was no English taught in the school, and now, though the above arrangement should secure vernacular education from being sacrificed to English, it must be confessed that the vernacular instruction is poor, especially in Oordoo and Persian. This is a matter for regret, as excellence in the latter language is much thought of in Mahomedan States, and the main support of the school is derived from the Bhopal State, which has contributed Rupees 5,000 annually to the support of the school for many years. A more ambitious vernacular course of instruction would be both gratifying to the subscribers and beneficial to the boys, who would thus secure a better chance of employment in Native States.

Owing to gaps caused by death in the staff of the Educational Department, Central Provinces, no Inspector of Schools has visited Sehore during the year under review.

In the isolated position of this school the importance of such visits and inspection cannot be too highly estimated, and it is owing to the want of such an inspection during the past year that the school is not in a better state. It is almost the only means there is of keeping the under vernacular masters up to their work.

Mr. Mears, the Head Master, is a very painstaking man and has the interest of the school much at heart, and works up these under-masters

as much as he can; but he complains of their apathy after they have once secured a permanent post. It is to be hoped that an Inspector of Schools from the Central Provinces may be deputed to visit and report on the school next cold weather.

The Sehore Girls' School has suffered a great loss in the death of the late Mistress, Mrs. Mears, in September last, who was much beloved by the children.

During the interval which unavoidably elapsed before a successor could be found, the numbers of the girls diminished considerably.

Miss Gould was appointed Mistress in December last, and has her reputation yet to make. The numbers have recovered somewhat, but it is scarcely to be expected that the gap caused by the death of the late Mistress, and the absence of Mrs. Osborne, who took a warm interest in the school, will be completely filled up for some time to come.

Jail—The average daily number of prisoners has been 56.15 at an annual average cost of Rupees 47-12-6 per man within 8 annas of the cost per head in the previous year. The health of the prisoners has been good.

The prisoners are employed in out door labour in and about the station. One effected his escape while so working, and the warder in charge was convicted and sentenced to nine months' imprisonment.

Post Offices—No new Post Offices have been opened during the year, and the enumeration of covers, papers, &c., for the whole year has been discontinued by the Post Office authorities, and in lieu thereof the second week in February and second week in August were chosen as the period in which the letters and papers for delivery should be counted. The number given out for delivery after deducting those not delivered amounting to 3,920 and 3,252 for the two weeks respectively. According to the Return of the previous year 59,863 letters, papers, parcels, books were received for delivery, or a weekly average of 1,112, as there is no apparent reason for such an abnormal increase, the difference must be assigned to the alteration of the system of enumeration, probably the one week's enumeration is more accurate as involving so very much less labour. Rupees 3,624 worth of postage stamps were sold in the Sehore Treasury during the year under review.

Electric Telegraph—Beoura, 36 miles from Sehore, is the only place within the limits of this Agency where there is an Electric Telegraph Station.

The number of messages received during the year was 543 and number despatched 216, for which Rupees 339-10 were paid, the amount of sales of Telegraph Stamps in the Treasury amounted to Rupees 523.

Public Works—There have been no new public works undertaken under the superintendency of this Agency, but in the Bhopal State the road between Bhopal and Hoshungabad is being made. Two miles, and three bridges or culverts are said to have been completed during the year, the new road is completed to Deep, about 12 miles from Bhopal.

Some repairs have been done to the road between Schore and Bhopal. Her Highness the Begum has given up the thought of connecting Bhopal with Hoshungabad by a Railway, on account of the great expense of construction over the hills, and the number of streams which would require bridging.

Survey Stations.—The Chiefs within this Agency have all been addressed on the subject of maintaining the trigonometrical survey stations in repair, and all replies yet received describe them so kept in repair.

Boundary disputes.—Captain Dalrymple has decided 34 boundary disputes during the year. His work in the cold season was broken into for a few days, in which he held charge of the Agency during the interval between Colonel Osborne's departure and my arrival. From the latter end of February to end of March, he has been engaged at Hoshungabad in the settlement of a boundary between Bhopal and British territory.

Lieutenant-Colonel Osborne, C.B., was in charge of the Agency up to 19th January 1874. I took charge from Captain Dalrymple on the 31st January last.

NATIVE STATES.

Bhopal.—The general condition of this State for the year under review has been satisfactory.

The customs and transit duties have been consolidated. Up to the present year the duty varied in each different subdivision (mehal), and now a uniform rate has been fixed for the whole State. The opportunity was taken to declare a considerable number of articles duty-free, but the principal articles of merchandise are taxed quite as heavily as before, and though the measure may have the effect of preventing speculation by subordinate officials, little or no relief will be afforded to traders.

Another measure, which has been introduced with the object of suppressing dacoities and robberies, is that armed travellers are required on passing the frontier to show a license to carry arms signed by the proper authority of the State from which they come. There is such a breadth of jungle and unprotected frontier, that any evilly disposed person will have but little difficulty in entering Bhopal with arms, and evading the posts where licenses are demanded.

The State debt, which amounted to nearly Rupees 7,00,000 at the time of the death of Her Highness the late Begum in 1869, has now been completely paid off.

It will be observed also from Her Highness' Administration Report that settlement operations are in progress, and that the country is now being surveyed for the first time, and the revised assessment of the revenue on the three mehals (subdivisions) quoted shows an enhancement of 60 per cent. on the former demand, which will be still further raised to 75 per cent. on the expiration of four years, the term for which culturable waste is to remain revenue free. It will be observed that no proprietary rights are acknowledged by the State between itself and the

actual cultivator of the soil. The moostageer is simply a contractor, who agrees to pay the revenue into the Government Treasury, on receiving an allowance of 10 per cent to repay him for his time and trouble.

When visiting Bhopal in February for the purpose of being introduced to Her Highness the Begum, I took the opportunity of visiting the school and jail. I had only time to pay a most cursory visit to the school, which was well attended, and carried on in a very suitable building for the purpose, it seemed well conducted.

The jail is in the old fort, and is divided into three compartments—one reserved for life prisoners only, each prisoner had at least one cell and many had two, an inner and outer cell, these are built round a court-yard, each prisoner cooked his own food. The men were not heavily ironed, and were evidently humanely treated, no labour was exacted of them, and the place was clean. A sentry paced in the flat roof of the cells, and a guard was posted at the gate.

The second compartment, the “miadi” prison for convicts sentenced to shorter terms of imprisonment, was an old building adapted to its present purpose, the men slept in two deep verandahs, and the sanitary arrangements, though fair, were not so good. The prisoners were employed outside the compartment in making durrees and newar and such like weaving industries.

The third compartment was the lock-up, in which also one or two lunatics were confined as well, as a rule the men had only been in custody for a few days, and some one or two for a month or six weeks. This division struck me as being rather crowded, but it was clean, and, on the whole, the state of the jail was better than I had expected, though not so clean or orderly as a District Jail usually is. The total number of prisoners, including those under trial, did not exceed 100, a small number for a population of 800,000.

Her Highness the Begum was obliged to return to Bhopal in January owing to the severe illness of her grandmother, Her Highness the Koodsia Begum, on that lady's recovery, however, she again proceeded on a tour of inspection, which will last well into the hot weather.

Rajghur—Area 642 square miles, population 75,742, revenue Rupees 2,17,000.

The administration of this State continues satisfactory.

Nursinghur—Area 720 square miles, population 87,800, revenue Rupees 2,68,500.

As reported last year, on the death of Raja Hunwunt Sing on 31st March 1873, his grandson and heir-apparent carried on the affairs of the State pending the sanction of the Government of India. The Government of India recognized the present Raja, Pertab Sing, as successor in April, but his investiture was deferred till December last pending an enquiry into the claims of the Indore Durbar to be consulted on the question of the succession. As these claims could not be proved, the young Raja was duly installed on the 4th December last under the orders of the Agent to the Governor-General, the usual khillut of investiture was provided by the Nursinghur State.

The affairs of the State appear to be managed satisfactorily; the Raja is educated and intelligent, and I believe attends personally to business. Though great strides have been made in bringing land into cultivation, there is still a large amount of waste land capable of reclamation.

Khilcheepoor.—Area 204 square miles; population 30,910; revenue Rupees 92,200.

The khalsa revenue is about Rupees 60,000. Colonel Osborne visited Khilcheepoor in December last and presented the Chief the Sunnud of the Government of India conferring on him the title of Rao Bahadoor; the khillut of investiture was supplied by the State. The affairs of this little principality are well managed as far as I have been able to judge.

Koorwai.—Area 162 square miles; population 16,823; estimated revenue Rupees 100,000. This small Mahomedan principality is independent of any other Native power. The Nawab is about 60 years old and has no sons. The question of the succession was raised on the late illness of the Chief, and has been before the Government of India. The Nawab had quite recovered from his late illness when I visited Koorwai in the end of February. The Mohurram was going on and was celebrated with much pomp.

The country is backward, and, though there is no jungle, the villages are thinly inhabited and much land is waste, which could well repay cultivation in a better-governed district.

The Nawab has changed the State currency from the Seronjee rupees, which are now getting scarce, to British Rupees, and in so doing allowed a favourable rate of exchange to all persons paying in money to his Treasury.

Muxoodunghur.—Area 81 square miles; population 9,695; revenue Rupees 31,000. The ruling family are of the Keechee tribe of Rajpoots, the affairs are administered by the widow of the late Raja during the minority of the present Chief, who was adopted from the Ragooghur family. The State is subordinate to Gwalior and was estimated to yield a revenue of Rupees 1,10,000 at the time of the grant to this family by Jean Baptiste Filose on the part of the Gwalior Durbar.

It must have very much declined, if the revenue was ever so high; the nominal revenue is Rupees 31,000, of which about half is khalsa, but the actual collections are supposed to be even less.

Basowda.—Area in square miles 68; population 5,440; estimated revenue Rupees 7,000. This petty Mahomedan State is an offshoot from Koorwai, having originally been a younger son's portion.

I visited the place in February last. The Chief, Nawab Umur Ali Khan, is a well informed man of perhaps 40, who has travelled a good deal about India, and he manages his property well, reclaiming jungle land, and sinking wells; he informed me that he sunk five wells every year at a cost of from Rupees 150 to Rupees 300 for each well.

Mahomedghur.—Area in square miles 80; population 2,938; approximate revenue Rupees 7,000. This State was divided off from Basowda in the same way as Basowda was from Koorwai, and the town is at the opposite extremity of the same hill. The Nawab, Mahomed Hafiz Kooli Khan,

has been in possession since about 1847, but the little estate is badly managed, the town has decayed, and there is much waste land, in fact, the revenue, though stated to be the same as Basowda, is much less, or rather the Basowda revenue is much more than that stated

Pathari—Area in square miles 22, population 4,330, approximate revenue Rupees 12,000 This is also a Mahomedan Chiefship subordinate to Gwahor, and the family is descended from Dost Mahomed Khan, the founder of Bhopal The Nawab is very young, and has only been in possession for a year as ameen, that is he was responsible to the Political Agent In December last the estate was made over to him altogether I visited Pathari in February, and as far as I could judge everything was going on well

Larawut—Area in square miles 30, population 2,900, approximate revenue Rupees 7,000 The Puar was deprived of the management of the estate owing to his incompetence in March 1869, since when he has been allowed to live in Sehore

The debt, which amounted to Rupees 16,073 3 9, has now been reduced to Rupees 5,737-3, and should be entirely paid off in another year

Bhilsa, Gunj Basowda, Mulharghur, Shujawulpoor, Sonekutch, Chachowra, and share of Soondursee—I marched through Bhilsa and part of Basowda, and they appeared to be well managed Sonekutch has a bad reputation as being the resort of thieves and dacoits, but no cases that I am aware of have been reported thence since my arrival

Zeerapoor, Machalpooli, Kantaphore, Gagronee, Nimawur share of Soondursee—These districts belonging to His Highness Holkar are satisfactorily managed

Seronje—This pergunnah, belonging to Tonk, is believed to have had at one time a revenue of Rupees 3,00,000, but now does not yield more than half that sum I visited the town in March, it contains many fine stone houses and a fine bazaar, but is very much decayed, most of the Marwaree mahajuns who used to live there have betaken themselves to Bhopal and other towns The old route from Bombay to Agra used to pass through Seronje, which now lies many miles off the English Grand Trunk Road between these places Cattle lifting prevails in this pergunnah to a large extent

Sarungpoor—The management of this district, belonging to Dewass, does not seem to have improved during the year under report The tanka due to Nursinghur was withheld on a frivolous pretext and has not yet been paid, and the tankas of Dhabla Dheer and Dariahheree have not been paid for three years

GUARANTEED GRASSIA AND OTHER THALDOORS

Tuppa and Kujooree are both under the management of this Agency during the minority of the jaghiredais, both of whom are being educated in the Sehore High School and are promising boys

Agra Berkherah—The Gwahor Durbar has a very large claim against this jaghiredar, who belongs to a very old Rajpoot family The revenue demanded from him is so heavy that he will never be able to

pay the arrears, even if he can find money to pay the current demand; on the other hand, the hereditary dues which this jaghiredar is entitled to from the villages of Pergunnah Bassowda are not realized and paid to him punctually by the Gwalior officials. It would be politic for the Durbar to remit a great portion of his debt, and reduce their demand and convert the Thakoor into a willing subject.

Jabria Bheel.—Raj Buksh Pindara, jaghiredar, died on the 17th February, his son, Jumal Buksh, has been recognized by the Government and put in possession of the jaghire.

Sootalia, Heerapoor, Kumalpoor, Dhabla Dheer, Dhabla Ghosee, Dariah Kheerce, Khursiah, Ramghur, Doogriah, Peepliakh Nugger.—There have been no changes among these jaghiredars and the management of the villages appears to have been satisfactory, and there has been no serious crime to call for special remark.

S E H O R E,
The 1st April 1874.

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(Sd.) H. C. BARSTOW,
Offg. Poltl. Agent in Bhopal.

Abstract translation of Administration Report of HER HIGHNESS THE NAWAB SHAHJEHAN BEGUM, G.C.S.I., Ruler of Bhopal, for the Fuzlee year 1280=A.D. 1874.

THE Eastern Division of Bhopal had already been once visited by me since my accession in the course of a previous year's tour, a report of which was duly submitted, but with a view to effect a more efficient administration of the country, and to afford redress to the oppressed, and to mete out punishment to bad characters, I again visited the Eastern Division this year, and according to established custom caused all the jaghiredars (landlords), mafeedars (freeholders), moostageers (revenue contractors), putwarees (village accountants), mahajuns (bankers), saliardars (pensioners), and employés of the tehsilee (land revenue), Thannah (Police), and Customs Department, and others to be mustered. After the usual notice was read to them the principle under which the new assessment was made of the villages comprising the pergunnahs of Istari, Deori, Selvani, was explained to them. These villages were recently surveyed, and leased out under a 20 years' settlement, the terms of the assessment will be mentioned in paragraph 2 of this Report. During my first tour through the Eastern District I was beset with petitions, the number thereof was exhibited in my former Report. During my second tour 687 petitions were presented to me; they chiefly belonged to fiscal and civil cases, and were, according to customary procedure, referred to the nazims (magisterial) and tehsildars (revenue), officials and others for enquiry: this is comparatively a small number of petitions, and bears witness of improved administration.

The detail of petitions are:—

Fiscal	...	...	...	458
Civil	...	...	...	132
Criminal	...	...	...	107
Total				687

In Bhopal the system of assessing villages on the basis of a professional survey has not hitherto been in vogue, the usual practice was to fix the assessment according to a rough estimate of the revenue, remitting 10 per cent as remuneration to the moostageer (revenue contractor)

Provision was, however, made for enhancing the demand on culturable land being brought under cultivation, and the enhancement was determined by mutual consent, the terms of these settlements varied from five to seven years, and this system of assessment was called "ameenee" (survey) (apparently from the name of the Assessor's Office) settlement, it was exposed to irregularity and abuse, as will be seen by the following —

Firstly — An accurate estimate of the revenue could not be ascertained

Secondly — In consequence of the short terms of the lease the revenue contractors very naturally took no pains to extend the area of cultivation

Thirdly — It was not a rare incident under the old system of assessment for the putwaree (village accountant) and the revenue contractor to understate the actual revenue of a village

Fourthly — Under the old system it was not uncommon for a revenue contractor, who happened to harbour a spite against his fellow revenue contractor, to deprive him of his village by overstating the revenue thereof, and in the absence of reliable data, no correct estimate could be formed

Fifthly — Under the old system, the assessment of the villages was uneven, some were heavily, whilst others were lightly assessed

The foregoing system gave rise to irregularity and was exposed to abuse and proved to be an obstacle in the way of improvement, and was prejudicial to the interest of the State.

During the reign of Her Highness the late Secunder Begum, Her Highness signified her disapproval of the ameenee (rough survey) system, and whilst on her tour in the district directed a notification to be published to the effect that a new land settlement would be made after the State was surveyed, that all cesses other than land revenue would be remitted, and if the revenue contractors were agreeable to the proposed settlement, to signify their assent accordingly by attaching their signature to the notification, and if otherwise, to set forth in writing the grounds of their objection to the introduction of the proposed settlement. As the projected scheme was calculated to improve the status of the ryots and benefit the State, the revenue collectors and others simultaneously and of their own free will and pleasure attached their signature to the notification as a token of their assent to the proposed plan. Her Highness after obtaining the consent of the revenue collectors and others to the proposition caused the boundaries of each village to be marked out, and the areas to be ascertained by a *nuzzerpamaish* (a summary survey), granted lease for 15 years on the condition that one-tenth of the culturable waste land should be set apart for pasture of cattle, the rest was allowed an immunity from revenue for five years, and after the expiration of that time was to be subject to the same rate of 1/2 1/2
under cultivation. Ten per cent on the ascertained 2 —

the revenue contractor for remuneration, and one anna per rupee for village expenses; by this arrangement the resources of the country were developed before the expiration of the 15 years, the revenue contractor being exempted from payment of all miscellaneous and local cesses. This system of assessment was introduced throughout the limits of the State. When the time arrived for new settlement, a second *nuzzerpamaish* (summary survey) was made to test the accuracy of the former settlement. The result showed that the estimate made before was inaccurate. This fact warranted the conclusion that the system of assessment hitherto adopted to ascertain the area of the lands was defective and could not therefore be relied on. In consequence of the expiration of the 15 years' assessment the leases were renewed by Her Highness the late Secunder Begum for a term of 20 years on the principle of the former assessment, with this difference that whereas in the former settlement both the 10 per cent. of land allowed for pasturage of cattle and the 10 per cent. remuneration to revenue collectors were respectively calculated on the amount of cultivated land and revenue paid on account of cultivated land, now by the revised settlement the 10 per cent. of grazing land is calculated on the total area of both cultivated and uncultivated land, and the 10 per cent. allowance to revenue collectors in like manner is calculated on the revenue from both cultivated and uncultivated, and the contractor's remuneration of 10 per cent. is deducted from the rent of both arable and other land. Consequent upon an accurate area of the land not having been ascertained at the time of the new assessment, the contractors were distinctly given to understand that on any future occasion should a correct estimate of the land they hold be ascertained by means of a professional survey, the assessment would be altered accordingly. During her lifetime Her Highness the late Secunder Begum was desirous of having the State surveyed by professional and competent authority; to effect the contemplated project, trained and experienced surveyors were employed; but her death prevented the projected scheme from being matured and carried out. After Her Highness' death I entertained a staff of professional surveyors. The result of a professional system of survey shows generally that the area of the villages is far greater than what was estimated by the *nuzzerpamaish* (summary survey), the rates of former assessment varied considerably, and in many instances were far too low. There were 18 descriptions of soil. This classification was attended with fraud; to check the evil, I divided the soil into six classes.

In the Eastern Division the *pergunnahs* (tracts) of Silvani, Jetari, and Deari have been surveyed; the former settlement contained three rates of assessment in each *pergunnah*, instead of them I have established an uniform rate equivalent to the average of these three different rates.

In the Bhopal territory there is a peculiar description of land called "*bhatoova*" which after growing crops for three consecutive years is allowed to remain uncultivated for the three following years; the rates of assessment charged on land of this description varied from three to six annas per *beegah* (equal to about one-third of an acre); as an encouragement to the *ryots* (peasants), the rates have been reduced to two annas per *beegah*. Under the former settlement culturable waste land was allowed to be rent-free for five years, after the expiration of

which time it was susceptible to a progressive rent rising on a graduated scale. Under the present settlement, although no immunity in case of culturable waste land was intended, yet to afford encouragement to ryots a total remission for four years has been allowed, the principle under which the moostageree huc (contractor's remuneration) and land for pasture was granted remains unaltered.

Contrasted Statement showing rates of former and present assessment

Names of Pergunnahs	Lease according to former assessment	Enhanced rate of present assessment on land under cultivation	Enhanced rate of present assessment on culturable land	Road cesses at three pice per rupee	Total increase
	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>	<i>Rs a p</i>
Silvan	42 272 6 9	30 255 15 9	11 351 1 9	1 310 12 9	80 190 5 0
Jetari	18 285 0 9	7 256 12 0	2 389 10 0	467 11 3	30 399 2 0
Deori	52 340 5 9	24 661 12 3	4 780 0 0	1 278 0 0	83 060 2 0
Total					1 98 640 9 0

3 As a rule Her Highness when out on her tour caused the weights of shop keepers and others to be tested, in the event of short weights being found in their possession, they were ordered to be destroyed and fresh ones supplied at the expense of the delinquent trader by the Government. This practice was attended with inconvenience and loss to tradesmen, inasmuch as delays occurred in supplying them with proper weights, remedial measures were therefore adopted to meet the requirements of the case.

4 The dense jungles in the Bhopal territory afforded shelter to thieves and bad characters and proved an obstacle in the way of bringing culturable waste land under cultivation. To remedy this evil notices were published throughout the limits of the State, directing revenue cultivators and others to clear the jungles within their respective holdings, leaving only such forests as have been reserved by Government for timber, &c., the revenue contractors were enjoined to bring waste land under cultivation.

5 In accordance with the orders of the Political Agent the Nazim (Commissioner) of the Western Division and the Police Officers of Ashta and Jowar have been directed to clear the jungles wherein thieves and bad characters were in the habit of taking shelter, and to adopt preventive measures.

6 In paragraph 24 of last year's Report mention is made that 23 bridges and 20 miles of road had been completed, during the current year three culverts and 10 bye roads of the city have been repaired, as also 24 bridges in the district, the bridge spanning the Ghorrajuchora river has been completed, and six arches of the one across the Betwa have been constructed, also a new bridge on the Dooshai road. The road between Sehore and Bhopal had been repaired.

7 Rupees 12,000 was the annual contribution

In April 1872 the Government of India sanctioned the remission of this contribution, and transferred the management of the road to the State. As the allotment was not sufficient to carry on the work with any degree of expedition, it was consequently increased to Rupees 14,400: this sum was also found to be far too small, therefore it was necessarily increased to Rupees 28,800. Out of this grant, two miles of road and three bridges have been constructed on the line of road between Bhopal and Hoshungabad.

8. In the Southern Division the arrangements for the maintenance of the Police Stations on the lines of road was defective, the number of Policemen at each Station has been increased from three to four, and in places where the roads run through dense jungles the numbers were increased to five. The localities of some of the Police Stations have been changed, and an efficient staff of officials appointed to superintend the working of the Police Department. This arrangement has involved the necessity of increasing the allotment set apart for this purpose from Rupees 6,432 to Rupees 7,272 per annum. Measures are in progress to introduce this arrangement in the other divisions of the State.

9. The arrangement hitherto in force for the purpose of affording protection to the person and property of travellers having been found to be defective, and not meeting the requirements of the case, an additional Police force, consisting of three mounted troops of 52 sabres each, and four companies of foot of 50 men each, was in consequence raised.

10. In last year's Report mention is made that a proper system of postal communication was established at an annual expenditure of Rupees 14,877-11-6. As the sum allotted for this purpose was found to be excessive, it was reduced to Rupees 9,264-12-3, a rate of speed has been prescribed, and the time for the despatch of mails fixed.

11. In paragraph 27 of last year's Report allusion is made of the amount of the State debt at the time of Her Highness the late Secunder Begum's death, the sum that was paid, and the balance remaining to be paid, *viz.*, Rupees 1,68,492-10-6. The greater part of this sum was paid off during the year, the small balance of Rupees 988-7 remaining unadjusted, is in consequence of the creditors having gone abroad, and some of their claims not having been established. If the claimants do not present themselves in due course, the sum will be struck off from the State debt. By the grace of God the burden of debt that had been incurred during the lifetime of Her Highness the late Nawab Secunder Begum has been removed. An intimation regarding the liquidation of the State debt will form the subject of a separate communication.

12. As a suppression to the crime of adultery, the Superintendent of the Criminal Court of Bhopal has been directed to promulgate a notification in the city of Bhopal forbidding, on pain of punishment, women, irrespective of castes, from going about the streets without a light after 9 P.M. during the summer and 8 P.M. in the winter. In case of private affairs, or absolute necessity, a passport should be applied for and obtained from the Superintendent of Police; but in no case will women be allowed to move about after the specified time under cover of darkness.

13. Hitherto eunuchs were permitted to pursue, with impunity, their nefarious calling in the commission of immoral crimes, as a remedial measure the public has been enjoined under penalty of punishment not to engage the services of eunuchs.

14 In the city of Bhopal cock fighting was carried on to a great extent, as it was attended by large assemblies of men, the Police has been directed to put a stop to this nuisance

15 The civil and criminal cases of the pergunnahs assigned for the household expenses of the Ruler used to be made over to the Minister of the household affairs for adjudication these cases are now under the cognizance of the Nizamut Courts for the sake of uniformity

16 Cases of marriage portions were cognizable by the Civil Courts of the State, the revised Court enjoins that the opinion of the Ecclesiastical Court be ascertained before any other procedure, decrees will be determined on only in cases when husband is in a position to satisfy the same, and the wife files a formal suit

17 In application to Courts of Appeal it was not uncommon for the appellant to state in his
 shewn when the case is being en
 not determinate on its procedure
 the matters regarding the grounds of appeal, the first Minister and other officials have been directed not to entertain any cases purporting to be an appeal against the decision of a Lower Court, unless it contains in detail the grounds under which justice is sought

18 The President of the Council Court has been directed to make over civil cases to arbitrators for adjustment, should the litigants concerned desire such a mode of adjudication, instead of by the prescribed code which is based on the Mahomedan and Hindoo religion

19 The President of the Council Court has been instructed not to refer appeals for the orders of the Ruler in cases that have been decided by the Ecclesiastical Court according to the Mahomedan law, and confirmed by the Court of Appeal

20 Three months was ter
 the time being reckoned from
 decree of the Lower Court this
 execution of decrees As a remedial measure the litigants concerned are informed that if they desire to appeal against the decision of a Lower Court, they should obtain a copy of decision of the Court of original jurisdiction within a week

The dates on which copies of decisions are given are to be endorsed on the proceedings of the case, to which the signatures of the litigants will also be attached

21 An appeal lies from the decision of the Court of Appeal to Mekana Mashwagria (Council Court), the term within which such appeals must be preferred is three months

In many instances appellants, with a view to defeat the ends of justice and to prevent the execution of decrees upheld by Appellate Courts, have filed appeals in the Mekana Mashwagria (Council Court) As a remedy against such practices decisions of Courts of Appeal will be at once carried out, but in the event of decree holders not being men of respectability, they will be required to furnish security and should the decision of the Court of Appeal be reversed, the sureties of decree holders will be called on to make good the amount of decree reversed on appeal to the Mekana Mashwagria (Council Court)

22. The rules hitherto in force for the collection of transit duty were defective and exposed to abuse in consequence of the customs officials having committed embezzlement with impunity. To check this evil, new rules have been framed and laid down for the working of the Customs Department on a more efficient basis. The revised rules enjoin the payment of customs dues, according to the prescribed tariff, at the place whence merchandise is despatched; after payment of duty a pass will be given to prevent any attempt at fraud. This pass will be verified at the intermediate toll-houses, where Registers will be kept up for the purpose of entering therein the passes granted by the despatching office. The revised rules further enjoin that any deviation from the prescribed rules by the customs officials will be visited with severe punishment.

23. To prevent customs officials from committing embezzlement rewards are offered for such information as may lead to the detection of frauds committed by customs officials. In all cases of conviction the approvers will receive as a reward of $12\frac{1}{2}$ per cent. out of the sums proved to have been misappropriated by customs officials; should it, however, on enquiry be proved that the information against customs officials is false, the delinquent will be dealt with according to the nature of his offence.

24. Hitherto the customs dues have been farmed out to contractors; as no prescribed tariff was laid down by the State, the contractors did as they pleased in the collection of customs duties. Some 20 years ago the State made its own arrangements for the collections of customs duties. Her Highness the late Secunder Begum remitted duty on some articles of merchandise, and reported the same for the information of the Agent to the Governor-General and the Political Agent of Bhopal. The tariff of customs duties varied in different pergunnah (tracts), in consequence a uniform rate was established throughout the State, exempting 130 miscellaneous articles from transit duty.

25. With a view to give Her Highness the Sultan Jehan Begum an insight into the way the State work is conducted, petitions of minor importance used to be sent to Her Highness for disposal; but as this gave her no idea of the correspondence which is carried on between the State and the Political Agent, now all news-reports from the Vakeel of the State in attendance on the Political Agent are sent to Her Highness for perusal.

26. Instead of Chatore Pergunnah, which was assigned to Her Highness the Sultan Jehan in jaghire, Banoree Pergunnah has been given, the latter yields annual revenue of Rupees 23,859-9-1 in excess to her former. Her Highness has been desired to liquidate her debts, and to keep the expenses of her jaghire within its income.

27. After the death of my late husband, Nuzeer-ool-dowlah Oomrow Doolah Bakee Mahomed Khan Sahib Bahadoor, and in accordance with the precepts of the Mahomedan religion, and with the approval of the Government of India, I married my present husband, Syud Mahomed Sadeek Hossain Khan Sahib; as a temporary measure, the vacant appointment of second Minister with a jaghire yielding Rupees 24,000 per annum was conferred upon him, but in a social and religious point was placed in the position that was filled by my former husband. Under

the circumstance, it was necessary that his position should be recognized by the Government of India, an application was accordingly made through the Political Agent. The Government of India was pleased to confer on my present husband the title of Nawab, and to confer on him the customary khillut, &c. The Political Agent, accompanied by the officers of the Station, proceeded to Bhopal and held a Public Durbar there for the purpose of delivering to the Nawab the Sunnud of Government conferring on him the title of Nawab and the customary khillut.

28 Mirza Fazul Alla Khan, the Ambassador of the Shah of Persia, came on a visit to Bhopal, every mark of respect and attention due to his position was shown him as desired by the Political Agent, the august visitor went away well pleased with the reception he met with at Bhopal.

29 The Bhopal Printing Press being of no use to the State, it was consequently abolished in March 1873.

30 The practice hitherto in force on occasions of marriages, &c, was that officials of the State and others obtained bagaries (porters) through the Commissioner of the Police, the laborers receiving two pice in the way of wages, as it was an inadequate remuneration, it has therefore been increased to one anna.

31 The officials of the State in addition to their stipends were permitted to enjoy "huc dustoory" (perquisites). Her Highness the late Nawab Secunder Begum put a stop to this practice of the officials being allowed perquisites, and by way of compensation increased the pay of such officials as had been hitherto allowed to enjoy perquisites.

The Court Nazirs were allowed a percentage of Rupees 6½ on proceeds of auction sales. These commissions have been disallowed, such assets are now credited to the State revenue.

32 In last year's Administration Report, under date the 2nd January 1873, reference is made regarding the "hucs" (hereditary rights) of the Neerukmee Thakooris of Bareesiah, there was a delay in settling their claims in consequence of their having failed to present themselves at Bhopal, but on the occasion of my last visit to Bareesiah I took advantage of the opportunity thus afforded me to settle their claims.

As soon as Sunnuds are given to the Thakoors separate report will be made on the subject for the information of His Excellency the Viceroy.

APPENDIX C.

ANNUAL REPORT OF BUNDELCUND AGENCY FOR 1873-74.

Nowgong, May 1874.

I.—INTRODUCTORY.

1. *Rainfall and crops.*—For some years past the rains in Bundelcund have been abundant, but ill distributed, falling too continuously and ending too abruptly.

Last year added another to the series.

The fall registered at Nowgong was $41\frac{9}{10}$ inches, all within the three months, July to September.

Except in a few places which had light showers, there was no winter rain.

The year began with an almost entire failure of the mahua [in hot weather of 1873], on which great numbers of the poor subsist.

Next, the khureef crops [reaped in autumn], which comprise the cheaper grains, suffered heavily from the continuous rain.

Cotton was a complete failure.

Cattle disease, mentioned last year, continued in various quarters.

Under the unfavourable circumstances thus persisting, more or less, through several seasons, most of the States have had to encounter annual deficits, while among the poorer classes there has been almost a chronic condition of semi-famine.

For three-fourths, indeed, of the year things were gloomy.

The difficulties existing in various places only escaped publicity as famine through being localised in limited tracts, and thus being somewhat under control.

Finally, it depended on the recent spring crops and the mahua of 1874 whether these scattered patches of distress should widen out into famine, general and unmistakeable.

2. *Insufficient indications of published Prices Current.*—One point merits notice, viz., that, for most of the year, such lists, as usually published, gave no clue to the actual condition of vast numbers of the population.

These lists give the rates of the better and medium kinds of food, but not of the lowest sorts.

The poorest classes, however, even at the best of times, can rarely get the first. It is not often they compass the second; while, more ordinarily, they just manage to live on the third, which includes sundry small grains, mahua, and jungle fruits.

The proportionate quantities of the three kinds of food obtainable for the same money in ordinary seasons may be roughly taken at about 1, $1\frac{1}{2}$, and 2 respectively.

For a time prices rose till only half of the usual quantities of all were procurable. But this was not the limit of difficulty for the poorest, as the failures of previous seasons had been chiefly in those crops which supply their particular food.

This last thus continued rising in price far beyond the normal ratio to the better grains, till finally some of the coarsest foods reached the same rate as wheat, or were not to be had at all.

At this time all which ordinary prices current showed was, that food was *twice as dear* as in a good year.

This was, however, only *half the truth*, because the food of the numerous class who suffer first and most severely from famine was *three or four times* its usual price, and often was altogether unprocurable.

Of course when the rates at all approximated, the better grain was the cheaper food, as being the more nourishing, but the poor like bulk in what they eat, and do not readily change from their accustomed articles of diet.

As with prices current, so with verbal enquiry, there was risk of not learning the real condition of matters, unless questions were searching, or asked of the classes directly concerned.

Thus at various places, on asking a person of position the rates of food in his quarter, those of the better kinds, just as shown in published lists, were stated

of the poorer sorts, I generally first
narily dear price, i.e., one bearing
of the better grains, which last of

course he knew, though on desiring my interlocutor to ascertain what such food was *then actually selling at*, he was often himself surprised to find it was far dearer than he had supposed, or was even completely out of stock.

Few, if any, of the poorer people in Bundelcund get more than one meal a day at the best of times, and there were many this year who did not get even that of wholesome food.

in different parts of the province—
is, the difficulty of judging the state
bservation in any one tract

In the monsoon the crops on high and stony soils suffered comparatively little from the heavy rain, while in the lower and better soils they were rotted and destroyed.

Then in the cold weather one might march for several days through a tract as bare as a desert, except where the *kas*, bind weed, had over-run it.

Next would be traversed tracts of lower or richer soil, or where there was irrigation from wells or tanks, in which places the rubber crops were fairly promising, and in a few places even capital. In many spots again, the fields, especially those of the arhur pulse, suffered severely from frost.

4 *Condition at close of year*—Fortunately, however, although the spring harvest failed in various dried up tracts, it was good in others,

more from the ear being well filled, than from the area being large, and thus the general produce over the whole district turned out better than expected.

The rise of prices consequent on the failure of the rain crops was relieved by imports from the North-West and the Nerbudda, though the smaller grains cultivated in Bundelcund could not thus be replaced.

Still greater relief has followed the recent coming in of the spring harvest, and especially of the mahua, which last has yielded fairly, and has been the first instalment of cheap food again for the poor.

Thus the year, which started gloomily, and was critical during most of its course, ended better than it began.

Indeed, but for the Bengal famine drawing so much grain to the east, imports would doubtless have been still more abundant, and prices lower.

5. *Health of district.*—With some exceptions this was fair. There was no general epidemic of cholera or other disease; but in the north-east and in the adjoining parts of the Banda District the former presented itself, and lingered for a considerable time, though the type was mostly mild.

It was fortunate that the Kirwee-Banda Camp of Exercise was untermanded at the last moment, for the area of the intended operations was just the tract where cholera, as above referred to, had barely ceased at the commencement of the cold weather, and where there was still a degree of semi-famine.

6. *Imperial Durbar at Agra.*—Owing to the circumstances above described, and brought to notice at the time, the year was an unfortunate one for the Chiefs to undertake a long and expensive journey.

Indeed, if the points, thereupon communicated as excusing attendance, had been closely adhered to, none of the Chiefs from this province could have gone.

But under the intimation that it would not be well for all to be absent, and their own liking for such ceremonies, irrespective of ways and means, three Chiefs went, *viz.*, Duttia, Sumpthur, and Chirkaree.

The countermanding of the public Durbar was too late to stop them when close to Agra, many marches from home.

7. *Deaths and successions of Chiefs.*—Three deaths occurred in the year, *viz.*, those of—

(1.) Rao Gopal Lal, Jaghiredar of *Kampta Rajola*, on 3rd October 1873, succeeded by his son, Rao Bharut Persad.

(2.) Raja Chutterpal Sing, Chief of *Beronda* [or Pathar Kachar], on 2nd March 1874, without issue.

Application made by family for his uncle, Baboo Raghburdial Sing, to succeed.

(3.) Maharaja Mahendur Hamir Sing Bahadoor, Chief of *Oorcha* [or Tehree], on 4th March 1874, without issue.

Application made by himself and family for his younger brother, Koor Peitab Sing, to succeed

II — CONDITION OF THE NATIVE STATES

8 *Oorcha or Tehree* suffered severely as regards the monsoon crops, but the spring harvest has been fair

A succession of bad years has, however, told heavily on its resources

The Chief passed some months at Oorcha, the ancient capital, a picturesque old place on the Betwa, now in ruins [excepting the palace and a few other buildings], mostly overrun with jungle, and reputedly haunted by miasma

There he was attacked by obstinate fever, and from this and other maladies, aggravated by unsuitable treatment, without European medical advice till too late, he finally died at the early age of 25

He left no issue, resembling in this respect his predecessors for several generations

The administration came more entirely than before into the hands of the newer officers, who possessed the Chief's confidence

Some of the old ex-officials had their jaghires resumed, a procedure to be regretted in sundry respects

Neither the finances of the year, nor the Chief's health, was favorable for much activity, but town and road improvements were steadily continued

9 *Duttia* has had a full share of the unfavorable seasons

The Maharaja fell ill on his return from the Agra Durbar, and was for some time in a critical condition

The debt is now large and increasing

The improvements in streets, bazars, and drainage at the capital are making good progress

10 *Punnah* — Nothing new requiring special note this year. The young Chief continues doing well

Under public works will be noticed the principal one now in hand

Two or three years ago the late Chief opened up the small ghât (of 200 feet altitude) in the south or Dumoh direction

When the large Bîsram Ghât is opened to the north, as it may soon be, when the Imperial Murla Ghât is ready on the west, and the high road eastward to the Railway at Sutna is completed, Punnah will be freed from the physical barriers which have hitherto isolated it

11 *Ajighur* — Endeavour to clear off debt continues the chief matter of interest

The unfavorable seasons of late years have been against it

In 1872-73 only five or six thousand rupees could thus be paid.

Last year, I am told, forty thousand were liquidated

If this rate can be maintained, the State may be free in five or six years.

The young Chief has made a creditable start in constructing the Singpoor Ghât, as will be described under public works.

12. *Chirkaree*.—The badness of late seasons is well illustrated in this State. Under the able management of Dewan Tantia Sahib it has usually had a fair surplus even after liberal expenditure. But for the two years preceding that under report, a deficit occurred owing to arrears and necessary remissions.

This year the rubbee harvest will do something to right matters again, but till the revenue collections on its account are completed, which occurs about June, the annual accounts in native territory remain open.

The Chief's trip to Agra and prolonged absence have, however, involved extra expenditure.

Public works will be noticed under that head.

13. *Bijawur*.—The measures mentioned last year for bringing expenditure within income produced, I am informed, that result. But owing, perhaps, partly to the unfavorable season, outlay on sundry desirable objects has been cramped; as, for instance, on the road connecting the capital with the Imperial highway at Mahatgaon, along which there is considerable traffic in Bijawur iron.

The frequent change of officials, before noticed, has been somewhat checked, as the one Minister held the chief post throughout the year; though during part of it his position was little more than nominal.

14. *Baonee*.—As separately reported, this small State had got into difficulties during the Nawab's continued ill health, the management of his brothers, and a succession of bad seasons. The Nawab applied for a small loan which has just been granted, and for Government supervision of the State till his son comes of age.

III.—JUDICIAL.

15. *Tabular Returns* already separately submitted.

No case of *suttee* or *sumadh*.

Rajpoot female infanticide.—Among the Purihars of Jignee the births have been 15 boys and four girls, a proportion *prima facie* suggestive of concealed female births and deaths. But every precaution possible was in force, and, so far as can be ascertained, these were the *bona fide* numbers. Out of them died two boys and one girl, besides two boys born in previous years.

The surviving children, since precautionary measures were first instituted, are 51 boys and 28 girls.

No robbery of *Government mails*.

16. *Dacoitee*.—Six cases came up, of which two were heavy, *viz.*—

First case.—One was at *Mujil* in Tehree, near the Lullutpoor frontier, by Rundhir Sing's gang from that zillah. Property valued at about Rupees 10,000 was plundered.

Second case.—This was at *Hirapoor* in Punnah, and on special grounds merits detailed notice.

Like the first it was a night attack on a rich man's house. One villager was killed and five wounded, including a woman shot through both legs. Property was carried off, mostly in gold and silver articles and cash, belonging to, or in pledge with, a Native Banker, and detailed at above a lakh of rupees.

The dacoits were promptly tracked for 60 miles to the Dessan river.

Near this point, four days afterwards, one of them [a common man] was arrested, a small sum of money [Rupees 42] recovered, and the gang was ascertained to have consisted of some two Punnah, seven Tehree, and 12 Gwalior men, the last being notorious Powar Thakoors from Jigna in the Jhansi Subahship, and their connections and dependents of that neighbourhood.

In Punnah the two men [one of them a Thakoor] and a small part of the property [about Rupees 300 worth] were at once secured.

Similarly in Tehree prompt action was followed by the like success.

Only one man escaped. The others, including two Thakoors of good position, were arrested, and about Rupees 2,000 worth of the property recovered.

In both the information first obtained was confirmed and extended.

Most of the plunder was, however, said to have been carried off by the Gwalior men as being the leaders, *viz*, a double share for each, besides a large portion of the whole previously set aside under the name of *chouth*, and the precise destination of which is not clear.

This is not the only dacoitee by Gwalior men in which the division of the plunder has been described as made after a portion had been first set aside as *chouth*, this literally meaning a fourth, but by usage applied to an exacted share of that amount.

It was learnt independently that the Jigna men and their friends had been absent from their homes for some weeks, fully covering the period of the dacoitee, and their ascertained stay here and there *en route*.

One division of them had gone first to their connections in Tehree, and got a reinforcement there. Another detachment had gone to friends in Punnah and Myhere, whence they joined the first division, and the Tehree men, at a rendezvous near the scene of the dacoitee.

Immediate information, with request for arrest of the dacoits, was sent to Gwalior, and also to the Subah of Jhansi, as Jigna is only 18 or 20 miles from the latter place.

The case was the heaviest, as it was also the most quickly and successfully tracked, of any in recent years.

There was ground for hoping that, with the like promptitude on the part of the Subah, it would be further marked, as the one in which all the offenders and property should be the most speedily and completely secured.

Unfortunately, however, the Subah contented himself with issuing routine orders, which were unsuitable, and even hurtful, in such a case as making matters public before acting.

After the first urgent requisition reaching him, nearly a fortnight [during which I had sent further communications] elapsed before any official went to Jigna, and the visit was then made without a body of Police to enable arrests, or *bond fide* search for property to be made, though from the well known character of the men it was certain beforehand that nothing could be done without sufficient force to command respect to authority.

The Thakoors refused even to go into Jhansi to the Subah.

Meantime they were not idle. Their arrangements for resistance or flight, if meddled with, and for conversion and scattering of the plunder were freely rumored.

It was not till 19 days after the first urgent requisition, repeated several times, had reached the Subah that a party was sent out the 19 miles to Jigna; and as the intended movement had been heard of previously, and was made openly, the party arrived merely to find that the Thakoors had just absconded, as was publicly known, and as I had myself warned the Subah would be the consequence of such style of procedure, though of course full information of Jigna matters naturally lay much nearer to himself than me.

Were the above a solitary or accidental instance of Jigna outrage or Gwalior inaction, such detailed notice might be unnecessary. But it is not so. It is merely one of a series and system, growing in gravity for years.

The Jigna Thakoors were notorious for lawlessness during the Jhansi Raj. When under us, and in the mutinies, we ourselves had full experience of their turbulence. So too, I understand, had Maharaja Sindia, at any rate at first, after the transfer of that part of Jhansi to him some years ago.

From some expressions of the Subah it may, perhaps, be inferred that they have latterly adopted the policy of quietness in their own district.

But if so, they have made up for it by activity elsewhere. During the last few years a number of dacoities and murders have occurred, in which Gwalior men, and mostly those of Jigna, have been charged, on grounds ranging from mere clues which needed co-operation to be worked out, up to the strongest evidence, or even actual acknowledgment. In some of the first class, if action had been taken by Gwalior, the evidence might possibly have been insufficient for conviction, and in others these men might have proved their innocence, which latter result, if promptly obtained, would itself have been valuable, as it would have shown that the dacoits in such cases were to be looked for elsewhere.

Yet in none of the cases, acknowledged or denied, strong or weak, have the Jigna people, though living openly in their villages, and several of them landholders [like some of their Tehree and Punnah associates in the Hirapoor affairs], been arrested and sent for trial, or has the plunder been restored, or compensation given.

Local associates, who are employed to get information and give notice of a good opportunity, can be and are arrested and punished. But this does little or nothing to stop the outrageous system when the leaders are known to be living unmolested a few miles off, enjoying the fruits of their expeditions.

References to Gwalior, even when made through the Central India Agency and accompanied by the fullest detail of evidence recorded before myself, have produced no result for years, and occasionally even no answer.

It had in fact latterly become a scandal of some notoriety and danger that the Jigna Thakoors were popularly supposed, and even boasted themselves to be, exempt from molestation for these outrages.

From an early stage in the present case the expressed belief, both European and Native, was that arrest of these Thakoors and recovery of the property [many thousands of Rupees worth] would not be made, so unfortunately it turned out for the 19 days during which they remained as it were in the Subah's hand.

Yet it appeared to me that the proper course was still frankly to appeal for the loyal co-operation of the Gwalior Durbar and its officials, and I therefore took especial pains to send the fullest information, immediately I got it, to Gwalior, and, as time was of such consequence, direct also to the Subah.

The case shows that the danger from the Jigna men is not confined, as hitherto supposed, to their adjoining frontier, or the western districts of the province, but extends also to any distance, Hirapoor being 150 miles from their homes and almost as far from the Gwalior border.

The evil from the example of numerous dacoities, profitable and unpunished for years, can scarcely be overestimated in such a wild country as Bundelcund.

If indeed this affair were to have passed off like others with nothing done, it would have become useless ever to attempt or expect anything in cases in which dacoits are not caught redhanded, *i.e.*, in the vast majority of cases, and the result would shortly be an uncontrollable plague of dacoity far and wide.

But I am glad to add that I have cordial assurances from the Officiating Resident at Gwalior that he has impressed most strongly on the Durbar the absolute necessity of arresting the dacoits, and that special measures are being taken for this object.

It may thus be that the case, which has been the crowning one of years, may yet also be the turning point as regards impunity, in their career of habitual dacoity and not unfrequent murder.

17 One case of robbery of cash in transit [Rs 3,500] in Duttia territory occurred. The men put up for the night outside both city and serai where there was no guard, and without taking any precautions of their own.

In the habit of conveying money for Native Bankers, they had evidently been recognized *en route* and marked down, for at midnight they were roused by a strong armed gang, which immediately pounced on the money and carried it off.

Inside an adjoining gate of the city there were at the time three men, but these, if they had been roused and got the cumbrous gate open in time, were unfit to cope with such a gang, which thus got a start before a party from the Kotwali in the heart of the city could reach the spot. Having got a start in the darkness, they kept it, making good their escape.

The Chief was absent at the time at the Agra Durbar.

The only information shortly afterwards obtained, and which corresponded with the direction in which it was found the gang had come and retired, was not more than a clue regarding which it could not be judged at the time whether, if loyally taken up and traced out, it would succeed or fail.

Unfortunately it pointed to Jigna men, even the strongest cases against whom had, for years, received no attention from the Gwalior officials.

Omitting other cases and minor references, I may instance the similar cash robbery of Rupees 1,838, accompanied by murder of two persons and wounding of five others in Burree Beron by a Jigna gang.

In February 1872 I sent to Gwalior the detailed evidence taken by myself of nine persons.

No result following, or answer coming for a year, I submitted particulars in January 1873 to the Central India Agency, which however was not troubled till communications with Gwalior had entirely failed.

No notice being taken by Gwalior for six months more, reference was again made to the Central India Agency.

Nine months further passing, and still without Gwalior notice or reply, this and other cases were resubmitted in March last, and so far with like result.

Just then occurred the Hirapoor dacoity and murder already described, in which there were some Thakoors who had figured similarly at Burree Beron and elsewhere.

18. A small *party of dacoits* on the Northern Duttia frontier worked out its own suppression with a somewhat unusual completeness.

Six men [two of Duttia, and four of Gwalior], some of them old offenders, had commenced robbing travellers, but had not succeeded in anything extensive when news of their whereabouts was obtained. A party of Duttia sepoy's went to arrest them, but they unexpectedly showed fight while moving off, and had the advantage in the first use of weapons. More Duttia men however came up, and the final result was that, while two of these were killed and two wounded, the whole six of the dacoits were killed.

19. *Thuggee*.—Four cases of its modern form, *viz.*, drugging travellers with datura in food, preparatory to robbing them occurred. No death resulted, nor was the amount of property thus obtained large. But the offenders in each case got clear off before their victims on recovery could give notice at the nearest police post and get search started.

No case of *kidnapping girls* for immoral purposes came to notice.

The *professional pilferers*, styled Sonorias in Tehree, or Chundur-bedis in Duttia, and over whom surveillance is kept, number 109 and 180, being thus two and five respectively less than last year, the decrease arising from some having died and others absconded.

IV —REVENUE

20 The effect of late unfavorable seasons on the *revenue of the States* has already been mentioned

The *Government tribute* from certain districts was unaffected

The following *nuzzeenans on succession* were realised —

From *Sureela*—

	<i>Rs</i>
First Instalment	5,000
Second ditto	5,500
Total	<hr/> 10,500

From *Tiraon*—

Last Instalment	996
Total	<hr/> 11,496 <hr/>

V —EDUCATION

21 *Rajkumar Central School*—The arrangements locally made were last year reported, and Government has recently intimated that it also will aid, so that now the institution may be started

Local State Schools—Returns are not yet complete, but from 23 States they aggregate—

Number of Schools	41
Average daily attendance of scholars	919

Last year amply confirmed the previous opinion that, without regular and competent inspection, these local schools are not nearly so efficient as they should be. This inspection will in future be possible by means of the staff of the Rajkumar College

VI —PUBLIC WORKS

22 *Imperial—Military*—Rupees 90,387 were expended on the new Cantonment, but mostly on miscellaneous and minor works, and completions

Latterly operations have been altogether suspended

Under the heading *Military*, paragraph 28, mention is made of the numerous buildings still unfinished, the risk of damage thereto from prolonged exposure, and the inconvenience to the troops from the requisite accommodation not being completed

The drainage of the new station has been considerably improved

23 *Imperial—Communications*—In the Bundelcund Road Division work was, as last year, chiefly concentrated on the Nowgong and Sutna Line

On this the lower or small Murla Ghât near Punnah was begun and opened for traffic within the year. It is a first-rate line, a capital piece of work, and, even by itself, a great convenience to transit. It is hoped that the larger and upper ghât will soon be taken in hand, as it still constitutes a barrier to unassisted cart traffic.

On the second half of the road between Punnah and Nagode, which, with its deep cut nullahs, was always desperately bad, bridging has been in active progress, and is expected to be finished before the rains.

24. *Local Works*.—In Nowgong Cantonment Rupees 3,581-5-11 were expended principally on improvements of bazaar and wells, and on trees near the new European barracks.

Under the Agency Rupees 1,112-7-0 on roads, culverts, and a pukka causeway over the Dhoreea Nullah leading from the station.

25. *Native State Works*.—Returns from 20 of the States indicate an outlay of Rupees 1,09,303.

But the work done is larger than might be supposed from these figures. Native State work is rougher than ours, but it costs less.

The largest outlay was in Punnah, Chirkaree, Oorcha, and Duttia.

In *Oorcha* operations have been chiefly at the modern capital, Tehree, but partly also on roads and tanks.

The town works, consisting of improved bazaars, streets, and drains, have been considerable and commendable, under the general supervision of Rai Prem Narain.

In *Duttia* also town improvements have occupied the first place, the aspect of the capital in some quarters being quite changed by the regular lines of street opened up, in promoting which Moonshee Nund Kishore takes an intelligent and effective interest. An immense deal is however yet needed.

In *Chirkaree* the capital is becoming transformed by the open and handsome bazaars under construction, to its great advantage also in a sanatory respect.

A new dispensary has been begun and partly built.

The works of the Jey-Sagar Tank commenced during the famine of 1868-69 have been almost completed, and by means of canals from neighbouring nullas provide ample water also for the city tank.

All these works reflect the utmost credit on the Manager Dewan Tantia Sahib, ably assisted by the Sadr Amin, Pundit Balmokund, both of whom add to general capacity no mean amount of scientific and engineering knowledge.

In *Punnah* the construction of the Bisram ghât is the most important Native State work now in progress in the Agency. In last report I mentioned its commencement with the new official year.

From the steepness of the hill side the cutting is heavy, and in some respects it is to be regretted that the Maharaja felt bound to this part of the range; but considerable cuttings executed by his late father at the top, water at a spot one-third down, and a village and water

again at the foot, together with some other matters, were considerations for keeping near the old immemorial track that were not easily to be put aside

Progress has been good. More than half the total height of 600 feet, from the plain below, has been in hand, and, at the close of the year, the only stoppage to cart traffic *throughout that portion* was in one of the bends, where there was a deep excavation for a culvert, which has since been built. The old precipitous track on the lower half of the ghât is thus now closed

id culvert, parapet and revetment, and however to be executed, but this can be

I have now lined out the upper part of the ghât, which I had to leave unmarked last year.

This portion of the new line utilises the late Chief's cuttings in three places, but intermediately has to diverge, in order to reduce the slope sufficiently. One in 25 will now be the ruling gradient throughout, while in places it is still easier.

In *Ajgurh* the construction of the Singpoor Ghât was undertaken

This is over a steep ridge between Bisram Ghât and Ajgurh, being, at the depression occupied by the crossing, about 150 feet above the plain on the Singpoor and Bisram Ghât side, and 120 above that in the Ajgurh direction.

Either side is thus somewhat less than the lower Murla Ghât on the Imperial road, which is above 150 feet. But the ridge, being generally steeper, entails heavier cutting.

In March 1873 I followed up procedure on the Bisram Ghât by similarly marking out the Ajgurh side of this Singpoor ridge, at the gradient of 1 in 25.

It was very hurriedly done, but the result shows that the rough clinometer, I mentioned last year using, may be trusted, so far as concerns the instrumental work, which it simplifies and reduces to a minimum.

The line has turned out well, and at the close of the year only needed a few small culverts, some drain and other finishing work, to be ready for traffic.

I have now marked out also the Singpoor side, which near the top is much more difficult.

In *Alipoor* the young Rao has built an excellent school.

A masonry causeway with culvert openings has also been constructed over a large stream [or rather stream channel] immediately on the north of the town, giving at moderate expense all the advantages of a bridge during the fair season, and even in the monsoon, except for the short periods the floods last.

In *Logassi*, under the Superintendent Rai Parmesri Dass, a road has been made connecting the capital with the Imperial highway, and another with Jheechun, a village in the midst of extensive jungles, which

it was most advisable to open up, both for the sake of extending cultivation, and to prevent their being a harbour for dacoits, which, in their almost impenetrable state, they often used to be.

A good school has been built and is now being roofed.

VII.—POST OFFICE.

26. The postal work at the *eleven* Offices in the Agency aggregated—

Letters, &c., despatched	...	...	...	1,41,949
„ arrived...	...	...	...	1,47,869
Total				2,89,818
<hr/>				
				<i>Rs. a. p.</i>
Cash receipts	...	...	...	7,917 11 11
Disbursements	...	...	...	5,251 10 6

VIII.—TELEGRAPH.

27. None at Nowgong, or in Bundelcund at all, except the Railway Office at Sutna, 100 miles from this station.

The want is increasingly felt.

IX.—MILITARY.

28. During the first part of the year the Nowgong garrison consisted of—

G.-19th Battery, Royal Artillery.
Detachment, Her Majesty's 106th.
Two Squadrons, 3rd Bengal Cavalry.
Wing, 15th Madras Native Infantry.

Excepting the Cavalry the other troops were replaced on relief by—

G.-11th Battery, Royal Artillery.
Detachment, Her Majesty's 63rd Regiment.
Wing, 20th Madras Native Infantry.

The troops were generally healthy, but particulars are given in the annexed Table.

Both Artillery and British Infantry are now in the *new barracks*.

Work on these structures has for some time been stopped, to the great inconvenience of the troops, and doubtless also with some injury to health.

From the number of *unfinished buildings* the men are crowded, although there are couple of double storied barracks so near entire completion that, with the roofing materials already in stock, a cash expenditure merely of Rupees 19,934 would fit them for occupation.

The various unroofed structures, into which monsoon after monsoon pours its rain, are certainly being subjected to a crucially prolonged test of their foundations and general soundness, to which anything but strong work must have yielded ere now.

As no accommodation for the sick has yet been provided in the new station, the old *hospital*, distant a couple of miles from the men's quarters, has to be used

Among the buildings needed is the Church The Bishop of Calcutta laid the foundation in 1869, but nothing further has been done

At present the new Canteen is used for service

X — MISCELLANEOUS

29 *Dispensaries*—Nine in number, furnish the following Returns —

Total admissions	7 975
Do died	107

Details of cost have not been received in complete form

The Nowgong Dispensary is the only one having European medical supervision, which is much needed also for those of the Native States

30 *Vaccination*—The Returns drawn up by Dr Watson show —

Total vaccinated	28 454
Of these successful	23 222
failed or doubtful	3 624
result unknown	1 608

The total is greater than that of the previous year by

5 451

The largest numbers were in—

Duttia	4 915
Punnah	4 779
Qorcha	3 317
Chirkaree	3 079
Chatterpoor	2 822
Byawur	2 255
Sumphur and Umia	1 807
Aughur	1 168

31 *Boundary settlement*—As Captain Blowers, the Boundary Officer, was transferred to another appointment in the early part of the year and not replaced, the work was almost in abeyance

Ten cases were however settled

32 The Cantonment Magistrate's Office was successively in charge of five officers during the year, viz —

Captain Maitland Officiating Cantonment Magistrate and Political Assistant, during April 1873

Captain Blowers from May to 7th July

Captain Swinley up to end of July

Captain Willock from August to 11th November

Captain Temple Cantonment Magistrate and Political Assistant, returned from furlough and resumed charge on last date

HEALTH OF TROOPS, 1873-74.

Station.	Troops.	Average strength.	Total admission to Hospitals.	Percentage of admission to strength.	Average period in Hospital of each admission in days.	Deaths.	Percentage of deaths to strength.	Cause of death.	REMARKS.
NOWGONG, BUNDELCUND.	EUROPEAN. G.-11th Royal Artillery.	147	33	22.41	5.39	Nil.	...	...	This return is merely from 20th February 1874.
	Detachment, 63rd Regiment.	191.4	72	37.69	18.11	1	0.52	Cordiac enlargement.	Returns have not been received from the G.-19th Battery previously here.
	3rd Bengal Cavalry.	273.63	373	136.3	12.5	1	0.36	Phthisis.	From December 1873. No return from detachment of Her Majesty's 106th previously here, and now in England.
	NATIVE. 15th Madras Native Infantry, Left Wing.	302.4	288	75.49	8.61	...	...	...	For the year.
	20th Madras Native Infantry, Right Wing.	205	101	49.26	6.80	...	...	...	From April to December 1873.
									From January 1874.

Nowgong, }
The May 1874. }

(Sd.) J. P. STRATTON,
Political Agent, Bundelcund.

APPENDIX D.

No 220 dated Baghelkund Agency Sutna 8th April 1874

From—Political Agent, Baghelkund

To—Agent Governor General for Central India Indore

I HAVE the honor to submit the Annual Report of the Baghelkund Agency for the year 1873-74

CHAPTER I

1 The chief political events of interest in the States under this Agency during the year have been—

(1)—The birth of a son and heir on the 17th January 1874 to the Maharaja of Rewah, G C S I

(2)—The death of Raghoobhind Sing, Chief of Nagode, on the 22nd of February, and the succession to the Chiefship of his son, Jadoo Bhinder Sing

2 The general health of the district was good, with the exception of at Nagode and one or two villages in its immediate vicinity, and at Sohawal, where cholera broke out in an epidemic form. At Nagode it commenced on the 26th April and continued till the 16th July, or 83 days in all. There were 171 persons attacked, of whom 95 died and 86 recovered. It is difficult to account for this outbreak, the most careful enquiries failed to show that it was imported, it did not extend to the compound and Military is by no means a very

and wells is plentiful and good. In a small hamlet just outside the cantonment limits and close to the Agency there were 19 cases and 14 deaths, the place had been laid out by the late Mr Coles then Superintendent, the streets were wide with plenty of ventilation, drainage naturally good, no accumulation of filth near it, but on the contrary, the hamlet and vicinity were exceptionally clean, and the water supply, derived from two wells, distant 200 feet from hamlet, though deficient in quantity, yet good.

At Sohawal, four miles from the Railway Station of Sutna, the disease made its first appearance on 23rd August and lasted till 18th October. There were 47 cases in all, of which 17 proved fatal. Here again we failed to trace importation, the town was decidedly dirty, but its situation is favorable, and the supply of water very good. The disease did not extend beyond Sohawal.

3 The monsoon of 1872 was in most parts of Baghelkund above all unseasonably, and the khurcef was a the crops which supply the food of the, "mhowa," "kodoo," and many small

kinds of grain which are only stored for the year's supply, and cannot be imported, as they are not grown in richer districts. The poorer classes, who are unable to afford wheat and the dearer grains, had to restrict themselves to "muttur," "mahsoor," "kootkee," and much anxiety was directed to the rubbee, which, shortly after time of sowing, did not promise over well, and for some months the prospects of this crop were decidedly unfavorable, and there was reason to dread that there might, from its failure, be a general scarcity of food, if not worse. Happily, however, rain fell at an opportune moment, and the crop over the district generally will be an average one. Large importations of grain have been made from the Central Provinces, and brought by rail to Sutna. This, combined with the public works which are going on, has proved of great benefit, and no cases of real distress from want of food have come to my notice.

4. There have been no cases of gang dacoity, of thuggee, suttee, or sumadh, nor any robbery of the Government mail within this Agency during the year under report.

CHAPTER II.

CONDITION OF NATIVE STATES.

5. *Rewah*.—The promises of improved administration so freely made by the Maharaja have, I regret to say, not been carried out.

The latest arrangement entered into with the view of pleasing both the factions in the State is to divide authority and work between the heads of these two parties, leaving to Sirdar Lall Rundumun Sing, Mooktiar-i-riasut, control of the troops of all kinds, and of the Civil and Criminal Courts; and to the late Dewan, Panda Deenbund, control in the collection of revenue and disbursal of expenditure. Neither of these officers is subordinate to the other, although the Maharaja states that Deenbund is to be supposed to hold the second place in the administration. I have pointed out most forcibly to His Highness the impossibility of such an arrangement working, and any one acquainted with the characters of the two men, the intrigues going on, and the state of parties generally in Rewah, will at once see that it cannot by any possibility last for any length of time. Even now I understand the Maharaja contemplates some other arrangements.

6. There is no improvement, I regret to state, made in the administration of justice, or establishment of regular Courts.

7. Interest on the Government Loan of ten lakhs up to October of last year has been paid, as also *one lakh* towards liquidation of the debt.

8. *Nagode*.—As reported in my letter No. 431 of 18th July 1873, Raja Raghoobhind Sing died on the 22nd February. He was succeeded by his only son, Jadoo Bhinder Sing, an intelligent lad of 19 years of age. The Government of India has decided that the management of the State shall be carried on for the present by the Political Agent, the young Chief, and the old Minister, and there is every hope that the young Raja will soon learn to stand alone. As soon as the financial

condition of the State is ascertained a separate Report will be furnished, as also on the paying off the amounts due to the various establishments which are nearly two years in arrears, and which will easily bear reduction

9 *Myhere* — There is little to add to last year's Report regarding this State. The Chief attends personally to the administration, which is fairly good

10 *Kotee* — This Chiefship is well administered

11 *Sidpoora* — This small Thakoorate, which, during the minority of the young Thakoor, is being managed by this Office, is progressing favourably. The total receipts from 6th June 1873, the date on which it came under management, to 31st March 1874 amounted to Rupees 5,569 4, and the disbursements to Rupees 1,349-15-2, leaving a cash balance of Rupees 4,219 4-10. I have just got in all the claims against the Estate. They amount to the large sum of Rupees 38,113, but I have no doubt I shall be able to reduce this amount very greatly. The Superintendent, Mahomed Oomui, has worked hard and conducted his duties with tact and judgment

CHAPTER III

12 *Civil Justice* — No suits of a civil nature are brought before the Political Agent's Court

13 *Criminal Justice* — The Statement in the margin shows the

Nature of offence	Number of cases	Number of persons
Murder	2	3
Culpable homicide	2	2
Theft of cattle and ordinary theft	3	9
Miscellaneous offences	1	1

number and nature of cases brought before the Political Agent's Court during the year 1873-74. As the Rewah State has full power in these matters, and there is no bazaar attached to this Agency, the number

of cases is small, being confined to those occurring in the non-Treaty States or where British subjects are concerned

14 *Punishment of whipping* was not inflicted during the year under review

15 *Police* — The Baghelkund Agency Police stationed along that portion of the line of Railway running through Native State has worked well during the year under review. Its strength and cost are as follows —

1 Native Superintendent	Rupees 1 500 per annum
1 Sub Inspector	" 720 "
8 Head Constables	" 1 020 "
38 Constables	" 2 748 "

Total cost, Rupees 5 888 per annum

The conduct of the men has been good. Many of them suffered a good deal from fever, but this is owing to the wretched quarters they have at some of the Stations, which are naturally unhealthy

16. *Jails*.—There is no Jail under the immediate control of this Office. Of those in Native States the ones at Nagode and Myhere are suitable buildings. The prisoners well housed and fairly well cared for. At Rewah no improvement has taken place in this respect since last year's Report. In all the health of the prisoners was good.

17. *Local Funds*.—There are none under the control of this Agency.

CHAPTER IV.

18. *Education*.—There is little to add to last year's Report. The Rewah School is kept up in a way, but the Chief personally takes no personal interest in the matter. Those at Myhere and Nagode are well attended, and the new school opened at Kotee is making fair progress.

CHAPTER V.

PUBLIC WORKS.

19. *Military*.—A few unimportant works in the Cantonment of Nagode were completed.

20. *Civil Works*.—These were confined to the annual repairs to the Agency Buildings at Sutna.

21. *Communications*.—The only work of importance going on under this head in the Agency is the Sutna Bela Road, on which satisfactory progress has been made, the whole of the earth work is complete, and a commencement on the bridges and culverts, for which a quantity of material has been collected, will be made almost immediately.

CHAPTER VI.

POST OFFICES.

22. There are nine Post Offices in the Baghelkund Agency—

1. Dubourah,	5. Jokhye,
2. Mujgowan,	7. Rewah,
3. Sutna,	8. Sohawul,
4. Ucharra,	9. Nagode,
5. Myhere,	

and it is in contemplation to have a small one opened at Kotee. Returns showing the working of the above have not been received.

CHAPTER VII.

23. Both the Government and Railway Company's line runs from Jubbulpoor through Sutna to Allahabad, but the former has no Office at Sutna, and the public uses the Railway line.

CHAPTER VIII

MILITARY

24 The only British military force within the limits of this Agency is that stationed at Nagode, and its strength is as below —

	CAVALRY				ARTILLERY BATTERY		INFANTRY REGIMENT				REMARKS
	European		Native		European		European.		Native		
Troops of the line			3rd B C	109					11th Regiment Madras Native Infantry	662	
Total				109						662	

or a total of 771 of all arms The health of the troops was good

CHAPTER IX

25 *Dispensaries*—There are five within this Agency, *viz*, at *Rewah, Sutna Bazar, Nagode, Sohawal, and Myhere* The following Table shows the working of these as also of the Agency Hospital —

NAME	Remaining on 31st March 1873	Admitted during the year	Total treated during the year	RESULT					REMARKS
				Cured.	Relieved	Absented or discharged	Died	Remaining on 31st March 1874.	
Agency Hospital	6	131	137	122	10	3	2		
Sutna Bazar Dispensary	22	1,303	1,374	1,137	60	149	6	33	
Rewah Dispensary	63	1,584	1,647	1,379	7	255	10	46	
Nagode	14	1,124	1,138	871	29	53	10	30	
Myhere	68	3,233	3,301	2,810	180	186	16	100	
Sohawal	5	689	694	877		34	20	13	
Total	18	8,313	8,491	7,146	28	680	159	230	

The deaths in Nagode and Sohawul were principally due to an epidemic of cholera. The vaccinations performed at the different dispensaries is shown below :—

N A M E.			Successful.	Unsuccessful.	Doubtful.	Unknown.	Total.	Ratio per cent. successful.
Agency Hospital ...	...	...	10	3	.....	.....	13	76'92
Sutna Bazar Dispensary ...	...	...	49	14	.....	17	80	61'25
Rewah Dispensary ...	...	...	18	3	.....	.....	51	91'12
Nagode Dispensary ...	...	...	722	75	.....	23	820	88'05
Total ...	...	...	827	95	.....	40	964	.....

Nagode was so many years under management that little or no prejudice exists against vaccination.

In the other States it meets with much opposition, but which will, I trust, gradually disappear. All these dispensaries, with the exception of that at Myhere, are under the supervision of Doctor Meiklejohn, Agency Surgeon, who takes much interest in them.

APPENDIX E.

No. 44

ANNUAL REPORT OF THE ADMINISTRATION OF THE RUTLAM STATE FOR THE YEAR 1873 74

THE Superintendent has the honor to submit the following report detailing prominent features worthy of notice in the administration during the year ending 31st March 1874

2. *Population* — There is not any remarkable change to be noticed. The number of new settlers both in the town and the district did not exceed 247 souls, namely, 169 in the town and 78 in the district representing 21 ploughs, 113 new houses, and three temples were built in the town. On taking charge of the management of this State nearly one quarter of the houses in the town were in ruin having been deserted previously. It is satisfactory to observe that not only the deserted dwellings have been restored and re-occupied, but its size has been overstepping its old limits

3 The total number of deaths amounted to 1,168, being 707 less than in the preceding year. The average rate of mortality was $11\frac{1}{2}$ souls to a thousand. The reported deaths from violence were 16, *viz*, two from snake-bite, five by drowning, three by burning, two by swallowing opium, two by hydrophobia, and two by cutting throats

4 The number of births amounted to 1,016, namely, 554 boys and 462 girls. The number of marriages was 278 against 17 last year

5. The total number of patients admitted and treated in the town dispensaries was 10,895 against 11,319, being 424 less than in the previous year. The cost of the dispensaries including contingent charges was Rupees 2,016, being Rupees 312 less than in the preceding year

6 The public health was generally good throughout the year as indicated by the diminished number of deaths and patients compared with the previous year. Some fires are reported to have broken out, but no significant loss of property was sustained. They are said to have been the act of an incendiary

7. *Civil Justice* — The number of suits filed during the year was as

Suits pending 1872-73	Filed 1873-74.	Decided	Pending
274	1187	1095	367

noted in margin. 1,095 cases were decided during the year as compared with 1,061 or 34 more than in the preceding year. 953 cases were decided in favour of plaintiffs, and

five in that of defendants. 54 cases were struck off, 83 compromised, and 367 remained pending on 31st March 1874. In 448 cases the parties attended personally, and in 647 cases they were represented by Vakeels. 690 writs of executions were issued. The number of commitments on

that account was 87, and attachments of property 3, and 600 were mutually settled without the aid of the Adalat. The Meer Mohallas decided 210 petty cases without fees.

8. The number of appeals to the Superintendent's Court was in 147 cases, including 75 which remained pending on 31st March 1873. The total number of cases settled by the Superintendent with the aid of the town Panchayet was 76, of which 43 were confirmed, 26 revised, and 7 reversed, and 71 remained pending on the 31st March 1874.

9. The Statements A. and B. give the statistics on this head. The value of property in contest amounted to S. S. Rupees 74,132 against Rupees 79,121 in the preceding year. The average cost of each suit including the fee of Vakeel was Rupees 8-8-9, and the average duration of each case was 62 days.

10. *Criminal Justice.*—The Statements C. and D. in the Appendix show that the total number of trials held and cases settled during the year under report was 1,432, including 61 pending at the close of the year 1873 against 1,274 tried and settled during the previous year.

Filed including the number pending on 31st March 1873.	Convicted.	Imprisoned for five years and under.	Fined and out-laned.	Fined.	Discharged.	Pending.
1432	365	23	15	324	975	69

The various punishments inflicted were as noted in margin. During the year the number of thefts registered were 141 besides 67, the balance of previous year, altogether 208, involving a loss of property worth Rupees 26,847, besides 67 head of cattle. Of these 47 were recovered and property of the value of Rupees 7,736 recovered as well as 21 head of cattle. 34 cases worth Rupees 1,609 with six head of cattle were mutually compromised. 31 cases were dismissed as unproved involving property worth Rupees 4,261 and four head of cattle. 96 cases worth Rupees 13,239 and 36 head of cattle remained untraced on 31st March 1874.

11. *Police.*—Nothing worthy of notice under this head. The Police continues to give satisfaction.

No alteration in its strength and cost.

12. *Jail.*—The number of prisoners in the Jail on 31st March 1873 was 86, 69 were admitted during the year. Of these three were transferred, one died, and 77 were discharged. The number remaining in jail on 31st March 1874 was 74.

13. The daily average number of prisoners was 79 $\frac{3}{4}$, and the total annual cost as per Appendix E. was Rupees 6,354-2. Of this sum Rupees 1,659 was for the subsistence of prisoners under trial. The annual average cost per head was Rupees 79-10-9 against Rupees 95-0-9, being Rupees 15-6 per man less than in the previous year. This charge is owing to a favourable change in the cost of food grains.

14. The prisoners continue to be employed in the State garden and the School of Industry, and to give satisfaction generally by their good conduct.

15. *Revenue.*—The rain-fall was more irregular in this year than usual. The rains commence here generally in June, but this year we

had more than four inches in January and February. In Malwa there is little or no "Chota Barsat" or Mahowta rains as in the Upper Provinces. Although this did some good to the standing rubber crops of grain, but damaged the opium crop, and delayed the commencement of the regular monsoon till July, the Khureef crops were generally good. The yield of opium was one-fourth more than the usual average. The wheat crop only suffered from the rains having ceased earlier. The out-turn of that crop is estimated one sixth less than the usual average.

16 The total quantity of rain fall was 39 inches and six cents in 59 days against 37 inches 67 cents in 60 days in the previous year as compared in margin. The continuous fall of rain from July to 18th September when the weather broke up at once, the crops had very little of sun-shine which affected the mucca crops in the plains, but in the hills the out-turn was not less than the

MONTHS.	1872-73			1873-74		
	Days	Inch	Cents	Days	Inch	Cents
January				1	1	5
February				4	3	3
May				1		15
June	8	4	55	3		95
July	19	10	4	18	12	47
August	2	18	10	20	10	23
September	11	4	98	13	11	13
TOTAL	60	37	67	59	39	6

usual average. The larger out-turn of the opium produce has not seemingly benefited the cultivator. What he has gained in quantity has in proportion lost in value. The price of opium has fallen and is Rupees 7 per dharee lower than last year. The Chinese may likely be benefited by the excess of yield inasmuch as they will have to consume cheaper drug than last year.

17. With the exception of the wheat as noted in margin, there is much favourable change in the prices of mucca and jowar which are chiefly consumed by poorer classes.

	1872-73	1873-74
	Price per ma Bengal mds S S Rs	Price per ma Bengal mds S S Rs

Wheat	22	21 4
Mucca	18	14 9
Jowar	18	15 4
Gram	18	17 12
Opium per dharee of five seers	61	54

Gram is very little consumed here. The rise or fall in its price is not therefore much felt.

18 Customs — head worthy
of notice. There has been a twofold trade
The cloth market has been the preceding
year. The Benares sugar continues to be in favour in preference to that from Mauritius. The total quantity of the latter imported yearly is about 4,000 maunds and of the other 8,000 maunds, Benares is cheaper by one rupee per maund.

19 The cotton market has been a little more active than last year. The export to Bombay is reported to be nearly 1,600 bales against 1,381 in the previous year.

20 Education — It is very satisfactory to record that progress of education both in the Central College and village schools continues to be most satisfactory. No opportunity is lost either on the part of the State to provide the requirements of education or to spare labour and attention on the part of those in immediate charge of the department to

promote its benign benefits. Accounts received from every quarter reflect great credit on the head masters, and their subordinates, for the results of their labour are very satisfactory.

21. The statistics are given in the report of Mr. Middleton, the Head English Master, and of Pundit Amernath, the Inspector of the Vernacular Department.

				Number of pupils in 1873.	Number of pupils in 1874.	several branches are detailed in margin. The number of pupils in the Central Col- lege was 418 against 241 in the previous year. Every branch shows some increase, but Hindee seems to be most popular. The number of pupils in the village
English	...	...	...	64	75	
Persian	...	...	...	38	70	
Sanscrit	...	...	...	35	12	
Hindoe	...	...	...	104	231	
10 Village schools—						
Boys	...	...	...	372	355	
Girls	...	...	...	30	37	
TOTAL	...	...	...	613	810	

schools was 355 boys and 37 girls, altogether 392 against 402 in the previous year. It shows a falling off of 10, but on the whole there was an increase of 157 boys and girls in the town and the district schools. The total number who received education in the State schools was 810 against 643 in the previous year.

23. The average daily attendance in the Central College was 241.98, and in the village schools 333.72, the total cost in the former S. S. Rupees 7,997-9-9 or Rupees 33-0-9 per pupil, and in the S. S. Rupees 1,900-6 or Rupees 5-11 per head. The average cost in the Central College has arisen from an increase of pay granted to the teachers.

24. There are 15 private aided schools instructing 526 pupils including 10 girls against 503 pupils in the preceding year. The total number received instructions in Rutlam was 1,336 against 1,141 in the previous year, showing an increase of 195 boys during the year under report. Of this number 1,149 learn Hindee and 187 English, Persian, and Sanscrit. It is not wonderful that Hindee is most popular. This is a Hindoo State, and Rutlam a Hindoo mercantile town, and Hindee being the national language it cannot fail always to be very popular.

25. *Public Works.*—The rooms which were being added to the Madersa building last year are completed and opened. The summer house in the garden is also finished and opened. A wall all around the garden 5 feet high and 3,700 feet in length is being built. The completion of the Audience Hall is still delayed owing to the non-arrival of girders, four of which being too heavy for common carts are still detained in Dhoolia, and may not be received before the rainy season sets in.

26. In the district three new wells and three "Orees" involving an expenditure of Rupees 7,200 have been built. They can irrigate 120 beegas of land yielding on the average a revenue of Rupees 2,000 yearly. In the town seven more wells have been dug by private people for drinking purposes.

27. *Roads and Bridges.*—One bridge and eight culverts have been added to the works in this Department, 2,73,787 cubic feet of di was constructed and 3,62,605 feet metalled. A new bathing

1. The first part of the report deals with the general situation of the country in 1940-1941. It is a very interesting and informative study of the country's development during this period.

2. The second part of the report deals with the economic situation of the country in 1940-1941. It is a very interesting and informative study of the country's economic development during this period.

3. The third part of the report deals with the social situation of the country in 1940-1941. It is a very interesting and informative study of the country's social development during this period.

4. The fourth part of the report deals with the political situation of the country in 1940-1941. It is a very interesting and informative study of the country's political development during this period.

5. The fifth part of the report deals with the cultural situation of the country in 1940-1941. It is a very interesting and informative study of the country's cultural development during this period.

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6. The sixth part of the report deals with the future of the country in 1940-1941. It is a very interesting and informative study of the country's future development during this period.

7. The seventh part of the report deals with the conclusion of the report. It is a very interesting and informative study of the country's development during this period.

8. The eighth part of the report deals with the appendix of the report. It is a very interesting and informative study of the country's development during this period.

9. The ninth part of the report deals with the bibliography of the report. It is a very interesting and informative study of the country's development during this period.

10. The tenth part of the report deals with the index of the report. It is a very interesting and informative study of the country's development during this period.

11. The eleventh part of the report deals with the list of figures of the report. It is a very interesting and informative study of the country's development during this period.

12. The twelfth part of the report deals with the list of tables of the report. It is a very interesting and informative study of the country's development during this period.

13. The thirteenth part of the report deals with the list of maps of the report. It is a very interesting and informative study of the country's development during this period.

imported from Bombay. It is horizontal, three-rollered, with cast iron frame to be worked by one bullock or six men. These mills are said each to express 15 cwts. of juice from one ton of cane in four hours by pressing the cane once through the rollers. Only $2\frac{1}{2}$ per cent. more of juice can be got by passing the refuse a second time through the mill, whilst the same process is made with the country mill by passing the cane three times through the wooden rollers. The success or the shortcomings of the mill depend on an experiment which cannot be made before the next winter. If the result is as successful as promised, the iron mill will be much in favour in this quarter. The price is Rupees 700 each, evidently too expensive for a common cultivator, but if in the end the promised saving in time and money will compensate him for this expenditure, he will not be backward to use it.

35. A bullock-power water-lift machine, which is after the pattern of what is called here "Persian Wheel," has likewise been imported this year from Bombay. It is reported to be very useful for irrigation purposes. Its success will also depend on an experiment. It seems to be as useful as promised. Its price is Rupees 750.

36. In the district 326 beegahs of virgin land has been brought under cultivation.

The agricultural fair was held in October as usual, and the agriculturists won most of the prizes.

37. *Political*.—Nothing prominent to be noticed here, except that in February last two of the Thakoors, members of the Regency, with 40 men, some of them being respectable Rajpoots, paid a visit to Jay. They were highly gratified with what they saw, as it was their first trip out of Malwa. The Bombay sights have not only left a great impression on their own minds, but their interesting accounts have induced others to follow their example. Nothing expands the mind so much as travelling and seeing foreign towns and people. It is hoped this want may be largely supplied before long by the opening of the Railways, which will greatly help the Malwees in taking a part in the great benefits which are already opened to other provinces of India.

38. In conclusion, I have the gratification to observe that the mutual cordiality and good understanding between the members of the administrative machinery continue undisturbed and satisfactory.

Head Master's Report of the English Department, Rutlam Central College, for 1873-74.

THE last educational year commencing 1st April 1873, ending 31st March 1874, has been a year of unexpected success for the English Department, the only anxiety felt was for the loss of a goodly number of students, among which were many promising lads. It has been said in the former Reports that Rutlam being a commercial city English education is not appreciated so much as the Vernacular, hence the cause of the small number on the Roll of the English Department. But the time is not far when a desire will be felt by nearly all for a knowledge of the English language.

The annexed form will show the result of the said year's examination. As no one else has time to spare, Baboo Sarnath Banerjee, Rutlam Chief's Preceptor, has always kindly come forward to examine the English and Vernacular Departments. The other annexed form will show the course of study adopted by said Preceptor in the English Department. The third annexed form will show number admitted, daily attendance, cost incurred towards support of Central College, Village and Private boys and girls' schools.

The Superintendent has spared neither cost nor pains towards the spread of education in the Rutlam State, which has caused a salutary revolution in the state of society. All classes appear desirous of knowledge, a spirit of enquiry after knowledge, and mutual jealousy for excellence in education are daily increasing. Several villages are yet without schools and will most probably be opened as soon as the educational funds permit.

The prizes for 1873-74 were distributed on 14th May 1874 by General Ma Rutlam Bannerman were present on the occasion. Before the distribution of prizes a few English and Vernacular classes were examined. The adult class composed of teachers and monitors were examined in Macaulay's Chve three of them read then essays (written for the occasion). Lala Bihari Lal's subject was "on the evils of opium eating." Nirnanjan Nath's "natural resources of India." Kanhya Lal's "on history." Of these three Lala Bihari Lal's was most interesting. Onkar Lal of the Persian Department read an essay in Urdu "on idleness." Punnah Lal, Assistant Pundit, Sanskrit Department, read some portion from the Mitakshara. The Hindiee classes were examined by Captain Bannerman. Captain Wilson especially in Arithmetic. In short everything came off to the entire satisfaction of the examiners and other Native gentlemen and Thakoor.

The English Department of the Central College has seven classes, then course of study was twice changed and were as follows —

Course of study from 1st April to 31st October 1873

ADULT CLASS

Hunter's History of India
Smith's History of Greece
Lennie's English Grammar
Outlines of Geography
Dictation and Translation

Course of study from 1st November 1873 to March 1874

ADULT CLASS

Macaulay's Essays
Hume's History of England
Cowper's Task
H's Physical Geography

Course of study from 1st April to 31st October 1873.

1ST CLASS.

Hunter's History of India.
Handyside's History of India.
Circle of Knowledge III. Gradation.
Howard's English Grammar.
First Geography.
Dictation and Translation.
Arithmetic in Vernacular.

Course of study from 1st November 1873 to 31st March 1874.

1ST CLASS.

Hunter's History of India.
Third Book, Part II.
Goldsmith's Deserted Village.
Howard's English Grammar.
Physical Geography.
Dictation and Translation.
Arithmetic in Vernacular.

Course of study from 1st April to 31st October 1874.

2ND CLASS.

Handyside's History of India.
Circle of Knowledge II. Gradation.
Second Book, Part II.
English Grammar.
First Geography.
Dictation, translation, and penmanship.
Arithmetic in Vernacular.

Course of study from 1st November to 31st March 1874.

2ND CLASS.

Lethbridge's History of India.
Handyside's History of India.
Chambers' Geography.
Howards (small) Grammar.
First Book of Poetry.
Third Book, Part I.
Dictation, translation, and penmanship.
Arithmetic in Vernacular.

Course of study from 1st April to 31st October 1874.

3RD CLASS.

Circle of Knowledge, 1st Gradation.

Howard's 2nd Book, Part 1st.

Verbal Grammar, dictation, and translation.

Course of study from 1st April to 31st March 1874.

3RD CLASS.

Handyside's History of India.

P. C. S. S. 3rd Book.

English Grammar, Geography.

Second Book, Part I., Dictation.

Translation and penmanship.

Arithmetic in Vernacular.

Course of study from 1st April to 31st October 1874.

4TH CLASS.

Reading without spelling.

Dictation, copy writing.

Arithmetic in Vernacular.

Course of study from 1st November to 31st March 1874.

4TH CLASS.

Sirkar's 3rd Book, Howard's 2nd Book.

Vernacular Grammar, Geography, dictation, and translation
copy writing.

Arithmetic in Vernacular.

Course of study from 1st April to 31st October 1873.

5TH CLASS, containing three Divisions.

Primer and copy writing.

Step by Step and copy writing.

Course of study from 1st November to 31st March 1874.

5TH CLASS.

Second Book, Part I.

Map, Geography, Vernacular Grammar.

Dictation and translation.

Arithmetic in Vernacular.

*Course of study from 1st April to 31st October 1873, and from
1st November to 31st March 1874.*

6TH CLASS.

Second Book, Part I.

Vernacular Grammar, copy writing.

Arithmetic.

*Course of study from 1st April to 31st October 1873, and from
1st November to 31st March 1874.*

7TH CLASS, containing three Divisions.

Primer, copy writing.

Arithmetic in Vernacular.

The following is General H. D. Daly's remark in the Visitors' Book :—

Not the least remarkable among the many remarkable benefits conferred upon Rutlam by the Superintendent, Mir Shahamut Ali, is the establishment of schools. Several of the pupils have attained a fair knowledge of English and appear to have been well grounded by Mr. Middleton, the Head-master; but I look upon the Vernacular education which is being diffused as of much higher importance. The earnestness with which boys of all classes through the Central School and the Village schools in alliance with it must tell favourably on the tone of society.

Rutlam ten years ago was a slough of despond, no roads whereby to approach, the Rutlam of this period with its roads and handsome College buildings is a new city with a changed society.

I opened this College in February 1872, when the buildings were in progress, the energy of the Superintendent touches all associated with him. The young Chief is being trained to take an interest in the education of those around him, this is not only beneficial to him, but tends to make the school education personal.

The 14th May 1874.

*Translation of the Report submitted by the Inspector, Vernacular School,
Rutlam. Central College, Rutlam.*

PERSIAN.

Strength of the School	...	...	70
Average daily attendance	...	...	42.97

Course of Studies.

1st Class.—Kimyáísâadut, Akhlaquimuhşinî, Qawâyadipársî, Táríkhi Hindústân.

2nd Class — Akhlaquimuhsini, Qawayadiparsi, Jamijahánumá,
Part 2

3rd Class — Akhlaquikasi, Quaid Urdu, Bostan, Jugrafini Hind

4th Class — Haqaqulmawjudat, Dasturulmaktubat

5th Class — Chandpand, Haqaqulmawjudát, Dasturulsibyan

The remaining four classes consisting of 42 pupils that are beginners read different elementary books. There are three scholarship holders in this school, and a number of boys received prizes at the annual examination. Two pupils that finished their course of education in this school have been appointed subordinate teachers and are giving every satisfaction in the discharge of their duties.

SANSKRIT

Strength of the School	42
Average daily attendance	24 11

Course of Studies

1st Class — Mitakshara, Manusmriti

2nd Class — Siddhanta, Kaumudi, Bhugolabastamalak

3rd Class — Raghuvansa, Vikramorvasinatak Laghukaumudi

4th Class — Raghuvanse, Hitopadesa

5th & 6th Class — Rupavali, Samasachakra, &c

Twelve pupils obtained prizes at the annual examination, and there are two scholarship holders in this school.

HINDI

Strength of the School	231
Average of daily attendance	124 57

Course of Studies

1st Class — Euclid and Algebra, Kshetrachandrika, Part II, Gamitapati, Geography (Map of Asia)

2nd Class — Gamitaprakasa, Part II, Kshetrachandrika, Part I, Bhogola, Part I, Geography (Map of India)

3rd Class — Hindi Rokai

4th Class — Behwarik hisab

5th Class — Mani hisab

6th & 7th Class — The four simple rules of arithmetic

8th & 9th Class — Tables, &c

Twenty six boys obtained prizes at the annual examination. One boy has been appointed a subordinate teacher in the very school where he received his training, and the others are doing good service in the village schools, 31 boys having finished their course of education have gone away, and have taken up different callings. There has been a

great change in the organization of the school, inasmuch as subjects that had never found favour with the Bunnia boys, has after all been introduced, and the education hitherto imparted with a view simply to enable them to understand business is now getting higher. The boys are being taught to read and write. History and Geography too have been made subjects of study along with arithmetic. The boys, however, have evinced interest in their new studies. The increase in the strength proves the popularity of the school, and the good result of the annual examination shows the efficiency of the teachers. We have moreover secured the services of an able Hindi Teacher, Pundit Gun-gasahay, who received his education in the Dusturuttalian Meerat, and possesses very good testimonials.

We have put the Pundit at the head of the school, which is getting on very well under his management.

VILLAGE SCHOOLS.

The number of children that receive education in these "Hulkabundi" Schools is 355 boys and 37 girls, the average daily attendance being 334. The yearly expenditure is Rupees 1,900-6, that is to say, the tuition of each pupil costs Rupees 5-14 per annum.

These schools acquitted themselves admirably well at the annual examination which came off in April last, and evinced very promising signs. They have in every respect proved themselves worthy of the attention bestowed on them, and in a great measure realised the hopes of diffusing knowledge in the benighted corners of the Raj. The simple and innocent villagers now seem to understand the utility of these primary schools, who a short time ago looked upon them with indifference. These schools have in this short interval produced (if I may be excused the expression) some clever scholars who by their superior knowledge not only proved themselves to be of much valuable assistance to their parents, but did great service to the schools in creating a good opinion regarding the sort of instruction given to them. Education is no longer a new thing in the villages of this Raj; inasmuch as we have less difficulty in prevailing on the *ryots* to send their boys to school. Some well-to-do farmers have even expressed a desire to give their children a higher education than what is imparted in the village schools. Nursinga, pupil of the 1st Class Dhamnod School, has already applied for admission into the Central College, Rutlam. So good an example cannot fail to be followed by others. I therefore beg to suggest that some arrangements should be made for the comfort and convenience of such boys as might come and live in town for the acquisition of higher attainments.

We have been able to establish three girls' schools, one at Dhamnod, the other at Nowgong, and third at Duntorea. These schools have been a great success, considering the short time since they have come into existence. The course of studies of these girls are necessarily very poor for the present. They are simply taught to read and write cipher, in which however they are making very good progress. They are taught sewing too. The specimen of their workmanships had handsome prizes in the Exhibition of November last, which were awarded to them by the august personages assembled at the distribution of prizes. I beg to invite your kind attention to a Zenana School, lately started in the town

by a gentlewoman who on account of her birth and character has the confidence of the people here. This school has ten pupils. Her services are worth securing, and I hope, therefore, you will approve of her appointment as a School Mistress.

Besides the schools mentioned above there are 15 aided ones consisting of 511 boys and 15 girls altogether. These schools too are doing much good work.

The success of the Vernacular Educational Department has been undoubtedly more than what could be hoped for, and the amount of good it is doing to the Raj is simply inestimable. More than 1,261 children are regularly receiving the benefits of education at its hands. If I have any complaint to make, it is against the Jaghiredars of the Raj, who have neither established any schools in their States, nor ever mean to do it so long as the Durbar does not interfere. If any Jaghmedai has a school at all, which is a very rare instance, it is a neglected thing.

Dated Augur 1st April 1874

From—Officiating Political Agent, Western Malwa,

To—Agent Governor General for Central India.

ON the 4th April 1873 I received charge of the Political Agency and the command of the Central India Horse from Colonel J. Watson on his appointment to officiate as Agent to the Governor General for Central India.

2 The first duty I was called upon to perform was the trial of two bands of Meenas who were accused of having committed dacoities within this Agency, both being attended with murder. The first case was the robbery of 12,500 Rupees in May 1871, close to the city of Oojein in transit to Pirawa, when one of the escort was killed. The second case was the robbery of silver bars and coin worth 40,000 Rupees on the 21st May 1872, near the town of Nulbhera in transit to Kotah, when out of the escort of 15 men, one was killed, and nine severely wounded, of whom two died of their wounds. In both cases the dacoits followed the treasure from Indore.

anything. When an expedition is determined they gather under recognised leaders, and those who can bring the sinews of war receive a full share of the profits called a "tank," and their leaders two "tanks." Subscriptions are invited to defray the expenses of the poorer brethren which are freely tendered, and each of those who subscribe and stay at home, and those who join but cannot pay their own expenses receive half a "tank." They leave in small parties, and always rendezvous in some large town, where their friends provide accommodation and give them information. There they remain as quietly as possible, sometimes doing a little nominal work, until some confiding trader despatches treasure imperfectly protected, which they then waylay. They are sometimes driven off, when they return and wait for another opportunity. Lately they have made Indore one of their rendezvous, and the credit of breaking

them up there belongs to Risaldar Major Isree Pershad of the Central India Horse, who at personal risk traced and apprehended the members of the bands I have mentioned in their own homes. Of those accused in the first case all (7) were found guilty; in the second case two were acquitted and 14 were proved guilty. The guilty are undergoing punishment, except three leaders in the latter dacoity whose cases are still under the consideration of Government. I am told that one of these last is the only remaining mature male member of his family, the others having been previously transported, and I have received reliable police reports that two leaders and some men who were engaged in the dacoity near Nulkhera have started on another expedition. But this information was not necessary to show the inveterate habits of the tribe. Eight Meenas since apprehended, and accused of being concerned in the dacoity near Nulkhera, will be immediately put on their trial.

3. In the trial of the Meenas in the Nulkhera case it was very clearly proved that the silver robbed was carried to Shahjehanpoor in Goorgaon, where it was cut up and sold.

4. On the 26th November I commenced a tour through Malwa and visited all the most important places, and returned to Augur on the 1st of February.

5. I first visited Pirawa, a pergunnah of Tonk, and under Colonel Watson's orders re-established the Customs post of Pirawa in the village of Kotri belonging to Holkar, which had been summarily ejected in 1866. It is one of those anomalies not uncommon in India, but for which a good reason originally existed, and which, if rightful, can only be removed by the payment of compensation.

The settlement of the Pirawa Pergunnah has expired. The Nawab has visited it, and personally renewed the settlement for a period of seven years on the moderate enhancement of Rupees 5,000.

6. Passing through Jalrapatan, where I was received by the Maharaj Rana with that kindness for which he is so well known, I marched through Holkar's zillah of Rampoor. The Maharaja's system is to deal directly with the cultivator, and he acknowledges no one between to share in the profits. Usually the revenue of one or more villages is collected by a contractor who is responsible for the payment in full, less $12\frac{1}{2}$ per cent., which are his remuneration, but he has no power to interfere with the assessment which the State makes with the individual owners of the soil; where no contractor can be obtained the revenue is collected by the officials. The rental per beegah (about half an acre) of land bearing two crops and fit for opium is as high as Rupees 23-8 and as low as Rupees 6, the average being Rupees 12-8, and for land bearing one crop suitable to wheat and other grains the average is Rupees 1-10, and for grass land eight annas per beegah. The assessment is made on a minute calculation, and is well known to be extreme. It is applicable to all the culturable land, and has at least two merits, that it obliges the people to be industrious, and it must have greatly increased the area under cultivation. The Maharaja, though certainly taking his full share, jealously protects his people from oppression by any official, which is an immunity not common everywhere.

7. Mundisore was next visited. It is the chief town of the zillah of that name belonging to Gwalior, and the seat of much commercial

activity, and will soon be brought within the net work of the railway. No land is more lightly assessed than the Gwalior territory in Malwa, and in this point will bear, I am told, favourable comparison with British territory. It is the result of the settlement made by the late Sir R. Shakespear and Dewan Dinkur Rao in 1860, and will expire in 1880. This wise settlement has converted a land of lawlessness into one of peace, and under it a new generation is springing up given to peaceful pursuits. I hope when the day for a new settlement arrives the Maharaja will be advised to increase it by a gradual process, for a native usually is not provident, to him prosperity means a higher scale of living, and to suddenly contract the profits he has been accustomed to would create discontent.

The criminal system in Malwa was faulty and opened the door to abuse, the Naib Soubah of Poudari in each zillah being really independent of his natural superior, the Soubah, and reporting to a distant central authority at Ojein. This I am glad to say has lately been remedied and criminal matters have been placed more under the control of the Soubah, from which I anticipate benefit.

8. *Seetamow*—The affairs of this small Chiefship continue well conducted, but the weight of the tanka it has to pay to Gwalior is an ever recurring subject of embarrassment. As it is unreasonable to expect Gwalior to sacrifice its rights gratuitously, Seetamow must depend on its own frugality to ease the burden and by perseverance get rid of it.

9. *Jowrah*—When I visited this State the young Nawab and his Kamdar were on a lengthened tour with Captain Wilson. They visited Calcutta and the intermediate places, the Madras Presidency by sea, and Bombay, from which the young Nawab derived both instruction and pleasure. The cleanliness of the town of Jowrah, its school, dispensary, and the general contentedness and prosperity were a pleasure to see, and few people are happier than those living under the kind rule of the Kamdar, Husrat Noori Khan. I brought to the notice of the Kamdar the necessity of a better jail at Jowrah and a serai at Poona Kheri, which he promised should have attention.

Poona Kheri is on the edge of the table land looking down on the valley of the Mhye. A detachment of the Central India Horse is stationed there, and a fair is held weekly and resorted to by large numbers of Bheels, who sell rice, jungle produce, and wood. I visited one of these fairs, and it was interesting to see the Bheels standing in lines in the most orderly manner armed with bows and arrows, and holding wood for sale, but taking no notice of any one until accosted by some intending purchaser. The traders who attend this fair with cotton cloth principally and other wares for sale arrive the previous evening and stay over the night after the fair, and in the morning are escorted by a detachment of the Central India Horse with loaded arms to the border of Banswarra, a distance of about six miles. A serai is much wanted, would soon repay its cost, and be a source of future revenue.

The Jowrah authorities revenue by the introduction of land revenue by the land talmaafcedars, but new sources of wealth are sure to be opened by the railway, and present fears will be proved to have been illusory.

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The Jowrah authorities apprehend a considerable loss of customs revenue by the introduction of the railway, besides the immediate loss of land revenue by the land taken up, and compensation to be given to *maafcedars*, but new sources of wealth are sure to be opened by the railway, and present fears will be proved to have been illusory.

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10. *Sillana*.—Passing through Piplowda, where I met the prosperous young Thakoor, I visited Sillana.

11. *Rutlam*, under its able Superintendent, Mir Shahamut Ali Khan Bahadoor, is quite a show city, and the prosperity of the State is as solid as could be wished. A capacious school-house, a garden-house for the young Chief surrounded by new gardens, aviaries, fountains, &c., have been constructed, and a handsome palace is being built in the town. The school is capable of holding about 250 pupils and is well attended. His Lordship the Bishop of Bombay happened to pass through while I was there, and kindly examined some of the classes, and expressed himself well satisfied.

For the condition of Rutlam I beg to refer to the Superintendent's Report, but it gives me great pleasure to bear testimony to his unremitting zeal for the welfare of his charge, to his success, and to the confidence with which he has inspired all classes.

12. There is nothing new to remark regarding the four mahals of Jalrapatun under this Agency. Their condition has been commended in previous Reports. No Chief attends more readily to representations than the Maharaj Rana.

13. There being no cases committed to the Sessions which were for me to hear I did not visit Neemuch. There have been four appeals during the year from the decisions of the Cantonment Magistrate.

14. The khureef and rubbee crops, excepting here and there a failure in wheat, have been very good, and there has seldom been so favourable an out-turn of opium.

15. Small-pox has been prevalent in the district. In the city of Augur it was very fatal, while in the Cantonment there were very few cases and none fatal. Vaccination had been performed in the city by the Native Doctor of the dispensary, but I fancy imperfectly done, for the mortality was equal among the children vaccinated and those not. I hope to persuade the authorities to have all children properly vaccinated in the city.

16. *Military*.—The two corps of Central India Horse changed stations in ordinary relief in October, the 2nd Regiment taking up the duties at Augur and throughout Malwa. Three squadrons were prepared and on the point of starting for the Camp of Exercise at Kirwee, when to the great disappointment of officers and men it was countermanded.

A detachment of 30 sabres under a Native officer was detached to the neighbourhood of Lullutpoor and Tehri to aid the civil authorities in suppressing a notorious band of dacoits under Rundheer Sing. The band dispersed and two of the gang, for one of whose apprehension a reward of Rupees 1,000 had been offered, were apprehended by Duffadar Bhundey Khan of the 2nd Regiment. His conduct met with the approval of His Honor the Lieutenant-Governor, North-Western Provinces, who sanctioned the payment of the reward.

Captain Neill and four Native officers and eight non-commissioned officers selected from the force proceeded in March to Bengal, where they are employed in famine relief operations.

d on the 7th and 8th of November
I, at Augur, and the 1st Regiment
26th, and 27th March by Brigadier

General Bright, C B, and the condition and appearance of both Regiments met with the approval of the Inspecting Officers During the year there were—

Discharged	17
Invalided	24
Died	11
Recruits entertained	52
Remounts	114

Of the latter 27 were Arabs, the others purchased chiefly at the fairs of Bataisur, Pokur, and Balotra

There are 23 detachments, in all 200 sabres, permanently employed on escort duty, or stationed to protect the Agra and Bombay road for a distance of 150 miles, and holding certain outposts in Malwa

Owing to the sickness, from which the head quarters of the 25th Native Light Infantry suffered at Mehidpoor, it was relieved last month by the 10th Native Light Infantry The huts are being thoroughly drained and the huts raised, by which measures it is hoped to maintain the new regiments in good health

17 *Jail*—There have been a daily average of 28 46 prisoners confined in the jail, at an average daily cost of 4½ annas, including the wages of the establishment, but the latter is too small to guard the jail, which is under the charge of a detachment of Native Infantry The prisoners have been healthy, and there have been no deaths

18 *Education* is well conducted at Jowrah and Rutlam, and at Augur there is the Regimental School of the Central India Horse

19 *Public Works*—A magazine and a rifle range have been made for the infantry

A serai is in course of erection from local funds, and will be a remunerative work It was much wanted, there being no place where a traveller could find shelter, and it will be much resorted to when the railway is open to Oojein

The survey of the road between Augur and Oojein, 43 miles, has been made, and there is reason to hope it will be simultaneously constructed with the railway to which it will be a feeder, and probably hereafter it will be extended to Soosneer and Pirawa and Jalrapatan

20 *Dispensaries*—The dispensary at Augur is daily visited by Dr Keegan, whose skill and kindness make a dispensary what it should be, a popular institution The Native Doctors at Rutlam and Jowrah are good men, and their dispensaries are well supplied with medicines

21
in settling
17 cases
—
of arbitration, and when the officer is compelled to take the matter into his own hands one party is pretty sure to be dissatisfied

Durand has been engaged the season and disposed of ties to agree to any mode

10. *Sillana*.—Passing through Piplowda, where I met the prosperous young Thakoor, I visited Sillana.

11. *Rutlam*, under its able Superintendent, Mir Shahamut Ali Khan Bahadoor, is quite a show city, and the prosperity of the State is as solid as could be wished. A capacious school-house, a garden-house for the young Chief surrounded by new gardens, aviaries, fountains, &c., have been constructed, and a handsome palace is being built in the town. The school is capable of holding about 250 pupils and is well attended. His Lordship the Bishop of Bombay happened to pass through while I was there, and kindly examined some of the classes, and expressed himself well satisfied.

For the condition of Rutlam I beg to refer to the Superintendent's Report, but it gives me great pleasure to bear testimony to his unremitting zeal for the welfare of his charge, to his success, and to the confidence with which he has inspired all classes.

12. There is nothing new to remark regarding the four mahals of Jahrapatun under this Agency. Their condition has been commended in previous Reports. No Chief attends more readily to representations than the Maharaj Rana.

13. There being no cases committed to the Sessions which were necessary for me to hear I did not visit Neemuch. There have been only four appeals during the year from the decisions of the Cantonment Magistrate.

14. The khureef and rubbee crops, excepting here and there a failure in wheat, have been very good, and there has seldom been so favourable an out-turn of opium.

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Captain Neill and four Native officers and eight non-commissioned officers selected from the force proceeded in March to Bengal, where they are employed in famine relief operations.

The 2nd Regiment was inspected on the 7th and 8th of November by Major General Montgomery, C S I, at Augur, and the 1st Regiment was inspected at Goona on the 25th, 26th, and 27th March by Brigadier-General Bright, C B, and the condition and appearance of both Regiments met with the approval of the Inspecting Officers. During the year there were—

Discharged	17
Invalided	24
Died	11
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Remounts	114

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A serai is in course of erection from local funds, and will be a remunerative work. It was much wanted, there being no place where a traveller could find shelter, and it will be much resorted to when the railway is open to Oojein.

The survey of the road between Augur and Oojem, 43 miles, has been made, and there is reason to hope it will be simultaneously constructed with the railway to which it will be a feeder, and probably hereafter it will be extended to Soosneer and Pirawa and Jalrapatun

20 *Dispensaries*—The dispensary at Augur is daily visited by Dr Keegan, whose skill and kindness make a dispensary what it should be, a popular institution. The Native Doctors at Rutlam and Jowrah are good men, and their dispensaries are well supplied with medicines.

21 *Boundary Settlement*—Lieutenant Durand has been engaged in settling boundary disputes throughout the season and disposed of 17 cases. It is difficult to persuade the parties to agree to any mode of arbitration, and when the officer is compelled to take the matter into his own hands one party is pretty sure to be dissatisfied.

22. *Studs.*—There are three stallions at Augur and two at Goona under charge of the Central India Horse, three are Arabs and two stud-breds. I have lately added a pure bred Kattiawar procured from Kattiawar to replace an Arab worn-out. This stallion will be most popular in Malwa. 137 mares have been covered. They are registered, and occasionally a non-commissioned officer is sent round to test the results.

There is a prejudice against breeding mules, which it has been impossible to overcome; the three donkeys are therefore useless, and I do not advise any more expense being incurred in keeping them.

23. One case of kidnapping was brought to my notice. The accused were two Goojurs, who were found guilty and sentenced to seven years' rigorous imprisonment.

24. Survey parties of the Topographical Department under Captain C. Strahan and Captain Riddell have been employed during the season with the good-will of all with whom they came in contact.

25. *Post Office.*—The mails and parcels have been carried with regularity and safety. A robbery of a valuable parcel took place in the Neemuch Cantonment Post Office, the parcel was recovered and the thieves convicted and punished by the Cantonment Magistrate.

26. The accounts of local funds are annexed.

(Not received.)

APPENDIX F.

ANNUAL REPORT OF THE STATES UNDER THE BHOPAWUR POLITICAL AGENCY FOR 1873 74

Dated Sirdarpoor, 1st May 1874

From—Political Agent Bhopawur

To—Agent Governor General for Central India

I HAVE the honor to report as follows regarding the condition of the Native States under this Agency enumerated in the margin

1	Dhar	9	Amylera	} Scindia } Holkar
2	Jabooah		Dektaun	
3	Ali Rajpoor		Sagore	
4	Jobut		Bang	
5	Kattawara		Bakaueer	
6	Ruttonmal		Munnawur	
7	Mut vari	10	Pitlawud.	
8	Dhai and Dharunra		Chiculda	

Life and property have on the whole been secure, and I have reported separately regarding the arrangements that have been made

for the future better government of the Dussana Bheels I am sanguine there will be no further trouble from that quarter

2 Cattle-lifting on the Kooshulghur and Jabooah frontier has been worse than usual, but matters have quieted down since the detachment of an outpost of the Malwa Bheel Corps Mr Framjee Bikajee's return from leave will have good result, it was first reported that a scanty crop was the cause of the Kooshulghur Bheel raids on Jabooah villages, but this has not been established by further enquiry I believe now it is simply owing to the laxity if not connivance of the Kooshulghur officials, who took advantage of the absence of the Assistant Political Agent

The Bheels in the States of both Kooshulghur and Banswarra require the strictest supervision, otherwise they cross the border in force and simply desolate our frontier villages, and when opportunity serves our Bheels are not slow to retaliate

3 The Mogheas who have so much increased in the districts round Dhar have been troublesome Road robberies are more frequent, but lists have now been made out of all the members of this tribe in Bukutghur, and weekly roll calls will have a good effect The Dhar Durbar has been advised to try similar measures in its own districts and in the villages of its Oomrows

4 In accordance with instructions received from the Government, the Chief of Ali Rajpoor was in May last placed in charge of his State as an experimental measure for one year Venket Ram, Rai Bahadoor, late Superintendent of the adjoining State of Burwance, was appointed Minister

5 The administration of the petty Chiefship of Jobut has not been satisfactory The Rana is deeply in debt with the invariable result

of hard pressure on the ryots who are all Bheels; last rains the late Superintendent of Ali Rajpooor, Khan Bahadoor Nujjuf Khan, at my suggestion, and the Rana's request, made a settlement of the village lands on the bases of that of Ali Rajpooor and Jabooah States adjoining. This settlement is now being worked by a well-trained man who has been appointed Minister. Some of the old bad advisers, Mekranees and others, still hang about, but in time we shall get clear of them.

6. The Boree Thakoorat is the most important of the Jabooah Nobles. The young Thakoor has not been a successful administrator of his estate; he is only 22 years of age, but owes nearly half a lakh of rupees with an annual revenue of only Rupees 17,000. During Colonel Watson's visit to Boree the Thakoor promised reform, and he has appointed an experienced man as his Kamdar, who will, if well supported, soon get him out of his difficulties. The district is solely inhabited by Bheels and Bhilalas; any misgovernment of, or undue pressure on, any portion unsettles all the tribes, hence the necessity for the most careful supervision over the administration of all the Bheel Chiefs.

7. The Bhoomiah of Kalee Bowree died during the year under review; his successor is a little boy of about ten years of age. I hope in a year or so he will join the Indore School, and the estate will be, I hope, well managed by his uncle, Motee Sing, under the general supervision of this office.

8. The Raja of Dhai, a small Chief under the supervision of this office, and whose districts comprise Dussana on the Chikulda frontier, the wildest part of this Agency, has come to the Indore School; for the last year and a half I have been trying for this end.

9. Colonel Watson, V.C., C.B., the Officiating Agent, Governor-General, made a tour through all the Bheel districts of this Agency in the cold weather; he visited the wild parts on the Ali Rajpooor frontier. His march among the Bheels will have a good effect, and be of service to the government of the Chief.

10. When at Ali Rajpooor last May for the purpose of making over the temporary government of his district to the Chief, I took the opportunity of a public Durbar on the occasion to give Nujjuf Khan, the late Superintendent, the Sunnud by which the Government have been pleased to confer on him the rank of "Khan Bahadoor." The Khan Sahib was much pleased at receiving this much coveted honor upon your recommendation.

11. The health of the district has been good; no epidemic except a remarkable outbreak of cholera among the families of the Malwa Bheel Corps at Sirdarpooor, by which one sepoy, two women, and six children died; this happened in September last, and was fully reported at the time.

12. The crops have been above the average. The opium remarkably good.

13. There have been no cases of gang dacoity, of thuggee, of suttee or sumadh, nor any mail robbery within this Agency during the past year.

CHAPTER II

CONDITION OF NATIVE STATES

14 *Dhar*—The administration of this State has been fairly satisfactory

Roads—The road between Gatabalode and Dhar, which will be a feeder to the Holkar State Railway, is rapidly being pushed on, and the foundations of the Chumbul bridge will be laid before the rains the Raja has contributed largely to these useful works

Schools—The Durbar reports that on the 31st March there were in the English School 52 pupils

In five Mahratta Schools 310 „

Three Oordu Schools 79 „

Five Hindce Schools 93 „

In the Girls' School there are 25 pupils

Dispensaries—There are two dispensaries, one under Dr Beaumont's supervision, the other purely a State institution, both are popular, and the means of much good vaccination does not progress The Chief does not oppose it but the people are mostly against it, and neither the native doctors nor the vaccinator have been able to overcome local prejudice

Finances—Very good The revenue from all sources has amounted to six lakhs and a half, the ordinary expenditure five lakhs and three quarters, owing to the part payment of the donation for the feeder road, and the expenses on account of the Burwai Durbar, there has been in addition an extraordinary expenditure of one lakh and a half The aggregate savings of the State amount to nine lakhs and three quarters, of which five lakhs, thirty one thousand and four hundred rupees is invested in Government of India Paper, the interest accruing from which is converted into fresh scrip

15 *Bukutghur*—In consequence of the minority of the Mundloce, his estate is under our supervision The young Chief attends the Indore School

The receipts and expenditure have been as follows —

	<i>Rs</i>	<i>a</i>	<i>p</i>
Receipts including cash balance	61 219	12	9
Disbursements	42 989	9	9
Excess of income over expenditure	21 230	3	0

At the close of the year the State debts amounted to Rs 17,718 9 6, Rupees 4,993 having been paid off during the year

When our supervision commenced at the death of the late Mundloce in 1869 the debt was Rupees 53 932 The Kamdars can fairly claim the credit due for this steady liquidation, but the services of an experienced native administrator would be of great benefit The rapid rise in the revenue would soon make good the extra cost, internal improvements could be carried out, and education placed on a better footing The Mogheea difficulty would be grasped by the organization of a more efficient police

I do not fear either objections from the present Kamdars or any members of the family.

16. *Guaranteed Thakoors*.—All with few exceptions are in debt. The Kachee Barodah Thakoor is the most involved; his villages are mortgaged to bunniahs, who screw all they can out of the ryots. I have spoken most earnestly with the Thakoor, offering any assistance in my power. I fear he cannot long avert a crisis in his affairs.

17. *Jabooah*.—The administration continues to be good. The largest of the Bheel States; it has been our sheet-anchor; it is smaller Bheel Chiefships to the Jabooah standard.

18. The steady fall in the price of grain during the last few years is affecting all the Bheel States, and Jabooah will suffer in common with others, and serious difficulty may accrue if the Raja does not reduce private expenditure.

Dispensary.—In spite of a previous want of accommodation, the institution is doing good work under its very intelligent native doctor.

Education.—There is no school-house. The boys assembled, and there are reported—

In Jabooah	...	...	48 pupils.
„ Ranapoor	...	...	27 „
„ Tandla	...	...	35 „

The income of the year is reported one lakh and twenty thousand, and the expenditure within that sum, but no faith can be placed in the accuracy of the returns furnished. The personal expenses of the Raja and his family are upwards of half a lakh of rupees.

19. *Ali Rajpoor*.—I have much pleasure in noting that the experiment tried last year of entrusting to the Raja the management of the revenue has succeeded.

There has been a deficit from a fall in the land revenue, and the payment of an increased allowance to the Raja to enable him to pay off a number of small debts contracted during the superintendence of the land, mostly sandy and poor, the assessment too high, and the steady fall in the price of grain has told against the cultivators. The rates have been now lowered. The cash balance at the close of the year has enabled the Raja to complete the liquidation of his debts.

A reduction of the expenditure has been advised within the estimated revenue.

With the cash balance of last year the income was only one lakh and four thousand. The expenditure has been seven thousand, including liquidation of debt.

The administration of the Civil and Criminal Courts is well conducted.

Education.—The schools are flourishing; there are 100 classes at the close of the year. The Raja

Dispensaries—The Agency Surgeon reports well regarding these institutions

20 *Mutwarh*—This little State is under the management of this office. The young Chief is a minor, and attends the Indore School. The financial state is good

	<i>Rs</i>	<i>Rs</i>
Balance on 31st March 1873	4,237	
Receipts	4,169	
	<hr/>	8,456
Ordinary expenditure	3,140	
Extraordinary expenditure, liquidation of debt	1,000	
	<hr/>	4,140
Balance		<hr/> 4,316 <hr/>

of which Rupees 1,500 is invested in Government scrip

21 *Jobul*—It was reported last year that at my suggestion the Rana requested the Dewan of Burwanie, late Superintendent of Ali Rajpooor, to assist in making a settlement of the district. This has been successfully accomplished as reported separately. All petty exaction has ceased, and under the new *Kumdar* upwards of 100 ploughs have been added.

The income is reported Rupees 15,000, and the expenditure Rupees 17,000, but the latter includes debts.

	<i>Rs</i>
The estimated revenue for next year is	17,000
Expenditure	15 000
	<hr/>
Saving to be	2,000
	<hr/>
applied towards liquidation of debt, which I regret to say reaches the high figure of	44,000
	<hr/>

Under careful management the income will steadily increase

22 *Ruttonmal and Kattewara*—These are two small States on the Ali Rajpooor frontier with Guzerat, they have been fairly managed during the year by their respective Rulers.

23 *Anjeera (Gwalior)*—All the districts under this Soobahship below the Ghâts are very backward. No roads, schools, or dispensaries, although school, road, and dispensary cess is carefully levied. The Soobah carries on his work fairly, but is dilatory in answering our requisitions.

24 The districts of *Dektan, Sagore, Bang, Bahaneer*, and *Munawur* are held in jaghire by Gwalior Nobles, they are nominally under the Soobah's jurisdiction, but practically the *Kumazdars* of the absentee landlords can be as obstructive as they please.

25. *Chikulda (Holkar).*—This pergunnah is situated on the banks of the Nerbudda opposite Burwanie; its villages are much mixed up with those of Cooksee Pergunnah (Dhar). The Durbar have not yet agreed to the proposal to appoint a Commission to arbitrate exchanges after the manner of the Tandla-Pitlawud case.

26. *Guaranteed Bhoomiahs.*—The Bhoomiah of Neemkhera is at the Indore School. The management of his estate is supervised.

			Rs.	a.	p.
The income was	...	...	16,939	7	9
The expenditure	...	...	7,706	11	11
<hr/>					
Leaving a balance	...	...	9,232	11	10
Towards payment of debt	...	...	6,415	5	3
The debts are now	...	...	6,500	0	0
<hr/>					

27. Tej Sing of Kalee Bowree died during the year; his successor is a boy of ten; the uncle, Motee Sing, will manage under our guidance.

28. The remaining Bhoomiahs have managed well.

CHAPTER III.

JUDICIAL.

Civil Suits.—None.

Criminal Justice.—The statement in the margin shows the number and nature of cases adjudicated by this office during the year under review.

Nature of offence.	No. of cases.	Persons implicated.
Murder and attempts	... 1	1
Culpable homicide	... 0	0
Robbery and highway ditto	... 0	0
Rape	... 0	0
Thefts of cattle	... 2	2
Miscellaneous	... 9	9
Total	... 12	12

29. The average duration of each case was one day, and none were pending at the close of the year.

In the Appendix will be found a tabular statement

giving information under this head.

Punishment by whipping has not been inflicted.

There were no appeals.

POLICE.

30. The only body of police under this Agency is the Nimar International or Chicklee Police, who have conducted their duties fairly.

The following statement shows their strength and cost:—

			Strength.	Cost Rs.
Horse	...	...	0	0
Foot	...	...	15	1,452

31. The following table gives an abstract of the statistics of the Sirdarpoor Jail for the past year, and a detailed statement will be found in the Appendix —

Health and conduct good	
Name of Jail, Sirdarpoor	
Prisoners remaining at close of 1872-73	5
„ admitted „ „ 1873-44	11
Total	16
Discharged or transferred	12
Escaped	0
Died or executed	0
Total	12
Remaining at the close of 1873-74	4

32. Jail charges of all kinds —	<i>Rs</i>
Rations and contingencies	205
Jail Guards' establishment	84
Total	289
Annual average cost of each prisoner	68
Daily average number of prisoners	42

CHAPTER IV

LOCAL FUNDS

33 The funds under this Agency are—

- I—The Agency Fund
- II—The Chicklee Police
- III—The Ah Raypoor Road dues (receipt divided among Chiefs)

The following table shows the receipts and disbursements of these funds for 1873-74 —

NAME OF FUNDS	RECEIPTS			DISBURSEMENTS									Balance on 31st March 1874.
	Balance on 1st April 1873	Total receipts during year	Grand total receipts	Collection and management.	Public Works proper	Local improve ments	Police Judicial.	Educational	Hospitals and Dispensaries	Grants to sharees of road dues	Miscellaneous	Total	
I—Agency Fund	Rs. 2714	3608	6322	Rs. 119	388	92					Rs. 1151	2810	3513
II—Chicklee	2217	2240	4457	502			1453				201	2200	2201
III—All Raypoor Road Fund	6082	13304	19386	2530						12607	298	12893	4148
TOTAL	11213	19202	30415	4266	388	92	1453			12607	1693	20553	9863

CHAPTER V.

EDUCATION.

34. The school of the Malwa Bheel Corps is the only educational establishment directly under the Bheel Agent; many of the men and children of the regiment attend. The following table shows in an abstract form the income, expenditure, and daily average number of pupils for 1873-74:—

Name of school, Sirdarpoor.

Daily-average of pupils.

English	...	...	...	...	0
Oordu	...	...	...	...	12
Hindee	...	...	...	...	75

Expenditure during the year.

				Rs.	a.	p.
Salaries	...	...	...	300	0	0
Contingent charges	...	...	...	53	13	9
(Paid from surplus funds)	...	...	...	0	0	0
Total	...	...	...	353	13	9

Sources and amount of income.

Grant-in-aid from Government	...	...	...	300	0	0
Local funds	...	...	...	0	0	0
Total	...	...	...	300	0	0

CHAPTER VI.

PUBLIC WORKS.

35. *Military Works*—None.

Civil Works—Communications.—On the Mhow and Neemuch Road, of which 50 miles fall within the Agency, the principal work done has been—

I.—*Mhow and Neemuch Road.*—Old metal consolidated and road put in good order from 5th to 15th and from 19th to 21st mile-stones, metal collected for the same; from the 21st to 32nd mile road is put in fair order.

II.—*Bridging.*—The Khulsarah bridge and Nos. 8, 9, 19 and 27, have been finished during the year. The Mucknee bridge of 3 × 25 is under construction and done up to the springing; it will be completed before the rains.

III.—*Fair weather portion* of the road has been improved and maintained.

IV.—*Annual repairs* have been effected to the Sadulpoor, Kanoon, Pitgarah, and Akala bungalows.

36 *Dhar feeder road*—This road, which is 12 miles long, and will be a valuable railway feeder, and is being constructed out of funds supplied by the Raja of Dhar, was commenced during the year and is being rapidly pushed on, the earthworks are nearly finished, and material is in course of collection for the masonry works

CHAPTER VII

MILITARY

37 The only Government troops serving within the limits of the Bhopawur Agency is the Malwa Bheel Corps

The following table shows the strength and number of sick during the year —

From 1st April 1873 to 31st March 1874	12 months
Daily average strength	408 23
" " sick	12 66
Remaining on 31st March 1873	6
Admitted during the year	420
Total treated	426
Discharged	410
Died in hospital	4
Died out of hospital	3
Remaining on 31st March 1874	12

CHAPTER VIII

SETTLEMENT OF BOUNDARY DISPUTES

38 No new disputes have been settled, but three appealed settlements of former years were finally demarcated

HOSPITALS AND DISPENSARIES

39 Dr Greenhow, the Officiating Agency Surgeon, was relieved by Dr Dickson, who was himself relieved by Dr Campbell on the latter's return from furlough in November last Dr Campbell has inspected all the Native State dispensaries, and reports favorably of their condition

The following statement shows the number of patients admitted and treated in the Ah Rajpooor, Jabooah, and Bukutghur dispensaries from 1st January to 31st December 1873 —

Name of Dispensary	Admissions	Number of deaths	Number vaccinated	Cost.	Remarks
				<i>Rs</i>	
Ah Rajpooor	1 620	10		1 437	
Jabooah	2 281	40	34	1 101	
Bukutghur	1 008	4		897	
TOTAL	4,909	54	34	3 435	

ARCHÆOLOGY.

40. Before the Mahomedan conquest, Dhar, like Mandoo (25 miles distant), was a seat of Bhuddhist learning, and many and costly were the temples that stood around the great lake, the stones of which can be traced in the fort and various Mahomedan buildings, and it is related by the present Raja that his brother and predecessor at one time dug up one hundred marble carved stones and images, which he caused to be pounded up to make lime, and thus many a valuable record of the past was destroyed. Lately while digging the foundations of an addition to the Palace, the workmen at 12 feet below the surface discovered many images, all bearing signs of overthrow and mutilation, as though the temples wherein they stood were suddenly destroyed. Some of these bear inscriptions: below is the translation of one, date Sumbut 1188, 5th of second-half of Magh (A.D. 1132):—

Side (left).

This building, an act of fame, is erected by Pudma Dena, disciple of the learned Chultra Sena, born in the family of Mathura.

Centre.

Hurrisini, one of the trading class, salutes Vut-
raja, who is the best of all
her relations; who is wealthy,
and the son of Narayen,
who is a sage, and is the
son of the merchant Vasun-
traja, of noble family ever
increasing.

Side (right).

Padmacharyea Madhava-
dandi, disciple of Sena, the
greatest of the learned men,
who is the disciple of the
learned Mahadeva.

Among them was found a beautiful marble statue, life-size in a sitting posture; it is in good preservation. The head had been knocked off, but I have been able to repair it, and it has been placed on a pillar in the Agency compound; it bears no date, only the inscription—"The merchant Shriputee salutes the learned Shri Sena." One of the other statues executed in basalt is dated Sumbut 963 (A.D. 910)—"Rohini salutes her father, the merchant Bhasat."

41. In front of a very old Patan mosque is an iron pillar square, which stood erect on a platform; now overturned, it rests with one end buried in the earth. There were wild stories current of the depth to which the hidden part penetrated, and tradition tells that a portion of a pillar eight or nine feet long which lies in the fort is its broken end. At my suggestion the Raja cleared the hidden end of soil, and it was found to have only penetrated 2 feet, making a total length however of 24 feet. The buried end shows traces of fracture, and is the exact dimensions of the larger end of the piece in the fort, *viz.*, a square of 10 inches; it is highly probable, therefore, that the two formed one pillar upwards of 33 feet long, which stood in front of a Bhuddhist temple, subsequently re-arranged into

a mosque by the Patans in the manner described by Mr. Fergusson.* It is possible also that the pillar was cast near at hand, otherwise it is impossible to understand how so vast a mass could have been conveyed any distance. Two feet 10 inches of the length of the smaller piece is eight sided, and there is evidently still a piece wanting to complete the pillar, for the smaller end of the short piece shows fracture, whereas the base of the larger piece looks like the rough finish of a monster casting. The two

* *Vide* his History of Architecture.

pieces if joined and erected would now form a pillar 4 feet square at the base, and 2 feet 8 inches at the top, length 33 feet. No inscription is to be found. The mosque is older than those at Mandoo.

42 Referring to letter from the Government of India, No 1961G, of the 21st November 1870, the table below gives the information therein called for

Name of Jail	Total number of prisoners during the year	Total number of sick	Number of deaths	REMARKS
Dhar	134	197		
Ali Raypoor	44	47	1	
Jabooah	115	107		
TOTAL	293	351	1	

43 In respect to Circular No 1260P, dated 22nd January 1871, nothing has come to the notice of this office showing that the crime therein referred to exists to any appreciable extent within the limits of the Bhopawur Agency

*Memorandum on the condition of the Malwa Bheel Corps for the year
1873-74.*

1. The total strength of all ranks on the 31st March 1874 was—

Bheels	...	...	...	348
Bhilalas	...	...	...	5
Naiks	...	...	...	125
Bunjaras	...	...	...	10
Other castes	...	...	...	104
				—
Total	...	...	...	592
				—

2. Head-quarters are at Sirdarpoor, and the following detachments, aggregating 135 of all ranks, are permanently absent:—

1. Sutpoora Hills	...	...	...	58
2. Rajpoor	...	...	...	52
3. Rutlam	...	...	...	15
4. Burwanee	...	...	...	5
5. Tehree	...	...	...	5
				—
Total	...	...	...	135
				—

Numbers 3 and 5 are relieved monthly, and the remaining detachments every six months.

3. The recent raids into Jabooah districts by the Kooshulghur Bheels has obliged us to send a strong detachment to the northern frontier of the Agency, but this measure is only temporary.

4. I beg again to submit the inconvenience arising from the permanent absence on political duty of our second in command.

5. The Government of India has sanctioned the issue of the short Enfield rifle in lieu of the old smooth-bore. The extra work entailed upon the officers on the receipt of the new arm will make the absence of the second in command more severely felt.

6. At the request of Government definite proposals for an increase to the pay of the men and native commissioned and non-commissioned officers have been submitted.

7. The regiment was inspected by the Major-General Commanding at Mhow in March. He expressed satisfaction at the improvement effected.

8. *Conduct.*—The conduct of the men has been good.

9. *Health.*—The general health of the regiment good.

10 *Savings Bank* —During the past year the men of the regiment have continued to take advantage of the Bank Rupees 4,471 have been deposited

Balance on 1st April 1873	Rs 2,072
Deposited during the year	„ 4,471
	—
Total	Rs 6,543
Withdrawn during the year	„ 3,883
	—
Balance on 31st March 1874	Rs 2,660
	—

11 *Bund* —Our local funds are not rich enough to pay for a masonry bund across the Mbye River, and thus relieve the men of the regiment from an unpleasant and harassing duty during the drill season. A donation from the British Government, backed by assistance from the local funds and the States who divide the Malwa and Guzerat road dues, would enable us to build a bund that could be used as a crossing, a convenience much required. The passage of this river is at all times difficult, and sometimes impossible.

12 *Regimental School* —Receives from Government a grant-in aid of Rupees 25 per mensem, in it the men of the regiment are able to qualify themselves for promotion.

The average daily attendance has been—

Ooidu School	12
Hindee „	63

13 Lieutenant W Ashfield, the Adjutant, has performed the duties of his office with much zeal. He takes the greatest interest in the regiment and its institutions, and it is of the greatest advantage that the headquarters are in charge of so trustworthy an officer during the prolonged absences of the Commandant on political duty.

14 Surgeon Major Campbell is now in medical charge of the regiment, he is most attentive in the discharge of his duties.

(Sd) W KINCAID, Major,

Offg Bheel Agent and Commandant,

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APPENDIX G.

No. 199, dated Maunpoor, 23rd May 1874.

From—Officiating Deputy Bheel Agent and Political Assistant, Maunpoor,
To—Agent to the Governor-General for Central India.

I HAVE the honor to submit the report of the districts under this Agency (as per margin) for the past official year.

- I.—Maunpoor Pergunnah (British).
- II.—Burwance State.
- III.—Jammia Bhoorniat (under British management).
- IV.—Bhoorniahs of Rajghur, Gurhee, Koteeday, and Baroorpoora.
- V.—Bagode Pergunnah (Dewas) (under British management).
- VI.—His Highness Holkar's districts of Burwaie, Muhegsur, Khurgone, Seindwah, Bumungaon, and Hasulpoor.
- VII.—Bombay and Agra Road.

I.—MAUNPOOR PERGUNNAH (BRITISH).

2. During the year under review 250 beegahs of culturable waste land have been brought under the plough, and 30 men from the neighbouring districts have settled

in the pergunnah. By degrees all the waste land is being brought into cultivation. The authorities of the neighbouring districts, however, appear to throw every obstacle in the way of farmers taking up land in Maunpoor.

All the malgoozars are men of no capital, and are unable to afford any assistance in the digging of new wells or tanks, or in helping new arrivals to procure cattle and seed. Having settled this pergunnah in 1867, I find, after an absence of 14 years, that the progress made is not so great as I expected it would have been. This is partly due to the lazy and extravagant habits of the farmers, but mainly to the heavy debts under which they labor. Six out of the 20 years have already elapsed, and unless Government comes to the assistance of the cultivators with a loan, it will derive little or no pecuniary benefit at the termination of the settlement. During the past ten years, after payment of all expenses, the surplus revenue remitted to Government has been close upon Rupees 60,000.

Ten wells were dug during 1873-74, but none of them are of a permanent character; they are simply "cutcha" wells. Numerous applications have been received for loans to construct wells, but owing to the absence of funds, it has not been found possible to accede to them. The pergunnah is calculated to contain 112,136 beegahs of land, and including bowries and oories, there are only 113 wells and not one single tank.

JUDICIAL.

3. *Civil Justice*.—Twenty-four civil suits were decided against 62 of 1872-73. The state of feeling between the bunnias and cultivators

is most unsatisfactory, and the execution of decrees is almost at a stand-still. The latter complain that the bunnias have ruined them by charging heavy interest and by sharp practice, and the former urge that no effort is made to pay off old debts, and every opportunity is taken advantage of to swindle them. Both parties are to blame, but as long as the bunnias give loans without considering how they are to be repaid, and charge exorbitant rates of interest in their transactions—in some cases (advance of seed for instance) the rate is 50 per cent—so long will this unhappy state of things continue. A committee of bunnias has been appointed to draw up certain rules which it is to be hoped will prove satisfactory to both classes.

Criminal Justice—There were 41 cases during the past year, and 66 persons were tried. Thirty-two were simply fined, nine were sentenced to six months' imprisonment, and only three were flogged.

REVENUE

4 The total receipts (Rupees 7,285-10-6) were Rupees 1,271 in decrease of last year's revenue. This is due to Government having relinquished its right to the taxes on the Bombay and Agra Road, and to the smallness of the receipts on account of stamps, &c. Owing to last year being an exceptionally good year for grass lands, the sale of grass has been less than usual.

The expenditure was Rupees 4,989, and is within the budget estimate.

EDUCATION

5 In the five schools of this pergunnah, the average daily attendance has been good, *viz*, 97. A school master for the English school has been engaged from the Sehore High School, and it is to be hoped that, under his care, the boys (19) will greatly improve. An experimental farmer's school has lately been opened at Seerpoor, to which the malgoozars very liberally contribute half the expenses. Eight boys attend this school, this, though not a large number, is sufficient to show that the prejudice against education is decreasing amongst the cultivators. The allowance for contingencies (Rupees 100 between five schools) might be increased with advantage. An annual examination by an Inspector is, I think, necessary.

PUBLIC WORKS

6 Rupees 505 have been spent in repairs to public buildings and roads, but no new work has been carried out this year. Although the pergunnah has been 30 years under our management, all the villages have not been connected with each other by roads. The surplus revenue of this petty district might, for the next few years, be usefully expended in laying out cheap moorum (not metal) roads.

The construction of village wells for (to good health) is necessary in 16 out of the 20. One will be made this year at Burgaon.

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The construction of village wells for drinking purposes (an essential to good health) is necessary in 16 out of the 31 villages in Maunpoor. One will be made this year at Burgaon.

MISCELLANEOUS.

7. *Dispensary*.—This pergunnah is fortunate in possessing the services of an excellent Hospital Assistant, Mr. Faiz Mahomed. One thousand, three hundred and sixty-one patients were treated, a large number of them (547) being fever cases. There were ten deaths in hospital. Seven hundred and ten travellers and 91 residents of Indore and Dhar districts took advantage of this popular institution. I am happy to add that cholera did not make its appearance, this being the second year in which this district has been free of that disease. Fifteen persons are afflicted with leprosy.

No vaccinator is sanctioned for Maunpoor, but the Hospital Assistant has vaccinated 50 children; of these 42 were successful cases.

8. *Agriculture*.—The rain-fall, 29.5 inches, was far below the usual average, and none has been registered since September. The opium, sugar-cane and mukka crops were good; gram and wheat indifferent. Only nine beegahs of cotton were sown. The Hingunghât seed, supplied some six years ago, does not appear to thrive in Maunpoor. Trials will be made this season of Dharwar and Guzerat seeds.

Coffee and cinchona seeds have been received, and will be planted this year.

The value of the year's crops has been estimated at Rupees 36,000.

9. As no village maps had been made since the commencement of the 20 years' settlement, I had the Village Putwarees instructed in the use of the plane-table, and before long I trust to have all the villages surveyed, and maps on a scale of four inches to a mile prepared. These are most necessary, and will prove very useful at the termination of the settlement.

Arrangements will also be made for a survey (Prismatic compass) of the pergunnah limits. At present there is no map of the district.

10. *Forests*.—Teak trees are strictly preserved, and will in a few years prove a source of revenue to Government. The indiscriminate cutting down of useful trees should be discouraged; but until a trained forester is appointed by Government, and certain rules laid down for the due preservation of valuable timber, it is hopeless to expect any solid advantages. The Bheels, as well as cultivators, cut what they like, and wherever they like, and the results are not favorable to the interests of Government.

A large quantity of seed of the "unjun" tree, which grows freely below the Ghâts, and is very valuable, will be sown this year. The same plan will be adopted as regards the larger species of bamboo which grow in the Burwanie and Ali Rajpoor Hills.

11. *Bheels*.—The conduct of the Bheels (1,722 in number) has been good. Arrangements are being made to lease four Bheel villages, but the inhabitants look with distrust on any interference with the system which has prevailed for so many years.

LOCAL FUNDS

12 Subjoined is a statement of the Local Funds —

Name of Fund	Balance of last year	Receipts of the present year	Total	Expenditure	Balance at close of year
	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>
Road Fund	189	130	319	196	123
Municipal Fund	155	209	364	276	88
School Fund	29	56	85	43	42
Total	373	395	768	515	263

II —BURWANIE STATE

13 During the past year this State, as an experimental measure, was handed over to Rana Jeswunt Sing, who has had the valuable assistance as Dewan of Khan Bahadoor Mahomed Nujuff Khan. The former Superintendent, Rai Bahadoor Venkut Ram, exchanged appointments with Khan Bahadoor, and is now Dewan at Ali Rajpore.

Burwanie is steadily and gradually increasing in prosperity. Its inhabitants are contented, and the wild and lawless Bheels have ceased to plunder, and have taken to tilling their fields. As long as the present excellent Dewan is at Burwanie, this happy state of affairs will continue, but should there, unfortunately, occur any change, this province will, in all probability, revert to the condition it was in 15 years ago.

JUDICIAL

14 *Civil Justice* — Three hundred and eight cases were brought before the Courts, the amount in dispute being Rupees 23,514. Of these, the Rana disposed of 28, and the remainder were settled by the Sudder Ameen, Beeharee Lall, and the Kumasdars of Burwanie. No appeals have been received.

Criminal Justice — Eighty-four cases (133 persons) were tried during the year under review. One hundred and six prisoners (82 cases) were convicted, and 27 were discharged.

Police — Rupees 5,870 worth of property was stolen, and the very small amount of Rupees 337 was recovered. The Rana's attention has been drawn to this subject.

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REVENUE.

15. The revenue, as per subjoined statement, was Rupees 85,205, showing a decrease of Rupees 8,472 :—

				1872-73.	1873-74.
				<i>Rs.</i>	<i>Rs.</i>
Land Revenue	...	...	...	32,544	31,487
Sayer	...	...	...	5,648	5,224
Abkaree	...	...	...	14,054	13,786
Customs	...	...	...	29,048	26,265
Law and Justice	...	...	...	6,834	3,945
Miscellaneous	...	...	...	1,549	498
Interest	...	...	...	4,000	4,000
Total				93,677	85,205

The chief items of decrease are Land Revenue, Customs, Law and Justice. The Rana lately gave the village of "Mundwara" (Rupees 1,800) in jaghire to his second Ranee, Purtabkoowar; otherwise there would have been an increase in land revenue. Owing to the cheapness of grain in the surrounding districts, the receipts on account of export duty on grain were much less than last year. The forests have been much better looked after than usual, and a decrease in receipts of the timber tax is the result. Only 308 civil suits were decided against 520 of 1872-73, causing a loss of nearly Rupees 1,000. The receipts on marriage taxes are much less than usual, owing to last year being what is called a "singut" year, in which marriages are not allowed.

EXPENDITURE.

16. The total expenditure was Rupees 83,530 against Rupees 89,836 of 1872-73, showing a decrease of Rupees 6,306.

EDUCATION.

17. The average daily attendance in 14 schools was 328 students. Owing to the small attendance of boys, the school at "Waswee" has been closed. The Inspector of the Durbar schools, Mr. Soobha Shastree, who

has also charge of the English school at Burwanie, having been appointed Kamdar of Borie (Bhopawur Agency), it was decided by the Rana that the appointment should be abolished. It was considered advisable to have only one English school for the whole of Burwanie, which, for the future, should be at the head-quarters of the State, the school master at Rajpoor being transferred to Burwanie.

At present there are two Moulvies at Burwanie and Rajpoor, who are in charge of the Oordu schools, but it has been arranged that a trained Moonshee from either the Agra or Allahabad Colleges should be engaged, and the two schools be combined into one at Burwanie.

The two girls schools have an average daily attendance of 18 pupils.

PUBLIC WORKS

18 The *large* masonry bund, at a little distance from Burwanie, owing to a heavy burst of rain, had been washed away, but has since been thoroughly re-constructed. By its means it is hoped that the large tank will receive an additional supply of water. A large boat, capable of conveying four large carts, has been constructed for the ferry at Rajghât, and the communication across the Nerbudda (about $\frac{3}{4}$ mile broad) is being improved. A small trestle bridge is being constructed, which will be a great convenience to the merchants trading between Malwa and Burwanie. The roads and public buildings have been kept in thorough repair.

MISCELLANEOUS

19 *Agriculture*—The crops were better than usual, 29 inches of rain having fallen, 76,505 beegahs were under cultivation, yielding, it is estimated, a crop valued at Rupees 4,93,038. Steps are being taken to develop irrigation as much as possible.

This district is very wealthy in cattle, numbering 56,687, and are valued at Rupees 9,57,560. The population, including 3,938 Bheels, is 32,465, being an increase since 1872 73 of 1,453 souls.

With the the unhappy calamity which has befallen Burwanie, information of the want of the grain. The out-turn of last year's cereal crops is estimated at 205,095 maunds (40 seers to a maund), and if provision at the rate of $\frac{3}{4}$ of a seer daily be made for 25,000 adults (171,094 maunds for 12 months), there would be a balance of 34,001 maunds. Provided that no grain was exported, it is believed that there would be sufficient grain in the province to last the population for at least eight months.

Dispensary—During the past year the Hospital Assistant at Burwanie, owing to the unsatisfactory manner in which he was carrying on his duties, was transferred to the Central Provinces, and an Assistant was sent from Khundwah to Rajpoor, Gunesh Rai, the Assistant at Rajpoor, being promoted to Burwanie. One thousand, two hundred and sixty and 1,691 patients were treated at Burwanie and Rajpoor, and the deaths were 8 and 26, respectively.

Vaccination.—One hundred and fifty-three children were vaccinated, being nearly one-third of last year's number. The vaccinator does not appear to have been supplied with good lymph.

Health.—The general health of the district was good. There were no cases of cholera. From the district returns it appears that there are 101 persons afflicted with leprosy. Bhilalas, Mankurs, and Kachees are the castes which suffer most, but even Brahmins are subject to it. Lepers are not required (as they ought to be) to live outside the village limits, and it would be satisfactory to know whether this horrible disease is on the increase or not throughout the country. Further particulars have been called for.

Forests.—The appointment of a competent forester is, I think, most necessary for the due preservation of the large forests in this State. The Bheels are an extravagant and thoughtless race, merely looking to their present wants, and never reflect what may be the future prospects of themselves and children. Urged on by interested parties, unless judiciously checked, they would clear the forests in a few years. This fact is painfully manifest in the districts lying north of the Nerbudda River. I have lately passed through Chota Oodeypoor, Ali Rajpoor, Dhi, Dhumrai, and Dussana Districts, and have been astonished at the reckless manner in which miles of forest lands have been cleared. Scarcely a tree of any value (mhowa excepted) has been left standing. During the hot season the Bheels exist by the sale of wood and the mhowa collections, but to enable them to do the former, the Dhi and Dussana Bheels cross the "Nerbudda," and cut timber in the Burwanie jungles. Several complaints on this subject have lately been made, but it is to be hoped that the Rupees 120 which the Rana of Burwanie has been ordered to pay annually to the Dhi and Dussana Naiks will be the means of putting a stop to what may at any time lead to unpleasant disturbances.

The conduct of the Burwanie Bheels has been good. There are nine Naiks in charge of the hills, receiving annually Rupees 1,488. These payments—merely a species of black-mail—now that the State has been entrusted to the Rana, ought, I consider, to be made through this office. The Naiks have great influence over a large body of half civilized men—men who caused the outbreak of 1858 in the Sautpoorah Hills, and have, up till lately, been notorious plunderers, and it would not be politic to trust their future to the care of a Chief who is always under the influence of stimulants, and is cordially disliked by them.

A fair, lasting ten days, is annually held close to Burwanie in the month of December; advantage of this will be taken next year to hold a cattle show.

III.—JAMNIA ESTATE (BRITISH MANAGEMENT).

20. The Bhoomia of Jamnia is looked upon by the Bheels residing in this part of Malwa as one of their leading Chiefs. On Sir John Malcolm's advent to Malwa, the Bhoomia's ancestor (Nadir Sing) was an independent robber Chief, subject to no Durbar. The present Chief is a boy of about 16 years old, and is studying at the Residency School. In about three or four years' time it is to be hoped that he will be sufficiently educated to manage his own affairs.

The receipts and expenditure are as follows —

RECEIPTS	AMOUNT	CHARGES	AMOUNT	TOTAL
	<i>Rs</i>	ORDINARY	<i>Rs</i>	<i>Rs</i>
Land Revenue	6 974	Land Revenue	1 054	
Sayer	516	Public Works	1 703	
Abkaree	129	Law and Justice	1 123	
Customs	392	Political charges	2 133	
Law and Justice	121	State charges	2 400	
Miscellaneous including Tankas and Resaldar's pay	5 869	Miscellaneous	1 201	9 614
		EXTRAORDINARY		
		Instalment of Bhopjee's debt 2nd instalment	4 000	
		On account wells	500	
		Tuccavee	388	4 888
Total	14 001	Total		14 502
Balance	3 117	Balance		2 616
Grand total	17 118	Grand total		17 118

The receipts are nearly Rupees 1,000 more than those of last year

The late Kamdar's (Bhopjee) debt is now reduced to Rupees 4 000 and Rupees 1,000 for wells. This might be repaid in another two years' time, and then the Manager will be in a position to expend some of the surplus revenue in promoting works of irrigation.

Including 715 Bheels, the total population is close upon 2,000

Boundaries—The boundary between the 47 Paras and the adjoining Indore villages has this year been demarcated and masonry pillars erected. Pillars have yet to be built on that portion of the boundary bordering on the Deltan Pergunnah (Name Baroda village), and, although the Gwalior Durbar has, during the last two years, been repeatedly solicited to depute a representative, it has not thought proper to do so.

IV — BHOOMIAHS

21 The following are the remaining Guaranteed Bhoomiahs under this Office —

Rajghur—Cham Sing
Baroorpoora—Oodey Sing
Koteedya—Motee Sing
Gurhee—Nahar Sing

Nearly all of them are heavily in debt owing to the abolition of road dues, and to the resumption by the Durbars of the extra sources of revenue which they had received for so many years. They now simply enjoy the land revenue of their villages, and bitterly complain of the

manner in which they are dealt with in civil cases. Long years of peace, which have substantially benefitted the Durbars, have certainly not tended to increase their incomes.

V.—BAGODE PERGUNNAH (DEWAS).

22. Revenue.—The villages of this small pergunnah entrusted to our management (exclusive of khasgee and jaghire) number 31, and are most of them held by contractors. The income was Rupees 2,539, being Rupees 69 less than last year. The land revenue has slightly increased, but the receipts on abkaree, forests, and judicial fees are less than usual.

Charges.—The total expenditure was Rupees 1,194-3-8, leaving a balance of Rupees 1,345-5-5 to be divided between the two branches of the Dewas family.

Civil Justice.—Thirty-two civil suits of the value of Rupees 1,003 were adjudicated.

Criminal Justice.—Twenty criminal cases, most of them of a trifling nature, were tried. Out of 37 offenders 12 were punished with fines, and the remainder were acquitted. Rupees 163 worth of property was stolen, but it was all recovered.

Education.—Ten boys are borne on the rolls, and the daily average attendance has been five. Most of the inhabitants are cultivators, and their children are employed during the day in the fields. The experiment of a night school will be tried.

Boundary disputes.—The Indore Durbar did not send its representative this year, and in consequence eleven disputes are still pending. The boundaries of the six settled disputes have to be surveyed and masonry pillars erected.

Miscellaneous.—There were 48 deaths; 32 of these were caused by fever. Six persons suffer from leprosy. The pergunnah numbers 2,457 souls, being an increase of 432 since last year; but owing to the smallness of the revenue no dispensary can be established, nor can a vaccinator be entertained.

The rainfall was 23 inches, being 11 inches less than last year.

There are eight khasgee villages belonging to the Durbar, yielding a revenue of about Rupees 1,530, and five held by Jaghiredar (rents Rupees 20): these are not under our management, and do not contribute anything to the general expenses.

Out of a total of 4,500 cattle 300 died last year from cattle disease.

There are 167 wells (eight masonry and 159 cutcha) irrigating 257 beegahs of land. More wells are urgently required, and if the Durbar could be induced to expend a small amount of capital, it would be hereafter amply repaid. The revenue of this pergunnah 103 years ago was reported to be Rupees 26,000.

VI.—HOLKAR'S DISTRICTS.

23. These six districts number 192,155 souls, occupying 36,715 houses. The railway, which has lately been opened as far as Mortukka,

will, no doubt, open up this part of the country, but feeder roads are much wanted

VII—BOMBAY AND AGRA ROAD

24 *Traffic*—Twenty-nine thousand one hundred and seventeen travellers and 45,791 carts and camels passed along this road during the year under report. Sixty one thousand nine hundred and sixty nine maunds of goods, valued at Rupees 1,12,35,286 (against Rupees 98,36,110 of 1872-73), inclusive of 3,883 opium chests and 6,496 bales of cotton, passed down the road towards Bombay

ROAD AND OPIUM DUES

The receipts were Rupees 13,843-14 and the expenditure Rupees 2,460. Balance available for distribution (46 shares) is Rupees 11,383-14

ROAD LOCAL FUNDS

	<i>Rs</i>	<i>a</i>	<i>p</i>
Balance on 1st April 1873	371	1	6
Receipts	2,075	12	0
	<hr/>		
Total	2,446	13	6
	<hr/>		
Expenditure	1,863	13	2
	<hr/>		
Balance on 31st March 1874	583	0	4
	<hr/>		

JUDICIAL

Civil Justice—Twenty-seven suits, value Rupees 334, were decided, and four are now pending

Criminal Justice—Thirty-two cases (42 offenders) were tried during the year under review, six were discharged, 34 were convicted, and two are pending

Police—The value of property stolen was Rupees 3,865-7, of this only Rupees 167-3 was recovered

There were two heavy robberies—one of cloth (Rupees 1,093) close to the Jamlee Chowlee, and the second (Rupees 2,632) at Khull, of property belonging to a sub overseer on the road. In both cases the thieves were traced into Indore territory, but nothing further has been heard of them

Dispensary—On the 1st January a small dispensary was opened at Khull, and 139 patients took advantage of it in three months, most of them being travellers

APPENDIX H.

No. 107, dated Goonah, 15th May 1874.

From—Political Assistant, Goonah,

To—Agent to the Governor-General for Central India.

I HAVE the honor to submit the Annual Report on the Native States and the Goonah Agency for the year ending 31st March 1874.

2. On Major Martin's transfer to Western Malwa in April 1873 this district was made over as a temporary measure to Captain Bannerman, C. I. H., and on my arrival here in May I received charge from him.

GENERAL OBSERVATIONS.

3. The peace of the country has been undisturbed, and throughout the different petty States life and property have been on the whole secure.

4. The general health of the people has been good, and, though the autumn crops owing to excessive rainfall was a failure, the rubbee, I am glad to be able to report, has proved far above the average. This is a matter of great moment, especially in this year when the scarcity of grain in other parts of India has tended to make a general rise of prices throughout the country.

5. During the winter I in turn visited each of the Chiefs.

6. I have had lately to recover from the different Guaranteed and Mediatized Chiefs of the Gwalior territory the sum of Rupees 3,842 on account of school and road cess levied from them by His Highness the Maharaja Scindia, at the rate of two per cent. per annum on total revenue, into arrears since 1868.

The respective amounts, heavy for men in straightened circumstances, they have naturally been somewhat reluctant to pay up, as they fail to see any return for their money.

Now however, as they have complied with His Highness' wish, I trust he will see fit to expend that amount, or some suitable sum, in the establishment of a school, the want of which at this place has been for some years past much felt.

CONDITION OF NATIVE STATES.

7. *Gwalior territory. Bujrunghur Pergunnah.*—The four pergunahs of Gwalior under the Soubah of Bujrunghur, *viz.*, Ranode, Pachur, Bujrunghur, and Chachowra have during the past year prospered fairly.

8. The light assessment made on the settlement by Naib Dewan Wasdeo Bhao in 1871 has, I regret to say, been cancelled, and the district is now for the fourth time being re-assessed.

Mahomed Syud Khan, the Soubah of the district, has taken great trouble and care in endeavouring to arrange the matter in as just and equitable manner as possible, but as he has received instructions from Gwalior to ensure an increase of about Rupees 90,000 in revenue, he has necessarily had to assess several villages at a higher rate than they have hitherto been charged

This new settlement, I am informed, is to remain in force for a period of 12 years, but if a somewhat lighter one had been determined on and fixed for a longer term, it would I think have proved far better both for the villagers and the welfare of the district generally

The total revenue from these four pergunnahs will, under the new *regime*, amount to about four lakhs, but as the settlement of one of the districts has not yet been fully completed, I am unable to state the precise amount.

9 I have to notice with regret the death of "Kunya Lall," Naib Soubah of Bujrunghur. He had served for upwards of eight years in this soubhat, and had invariably worked well and true for the interests of the Maharaja. His loss will be much felt in the district

10 The annual fairs held at Bujrunghur and Goonah took place as usual. The former, which lasted for a fortnight and at which I was present for three days, was exceedingly well attended. Large sales of cloths and country manufactures took place, and a fair amount of business is reported to have been transacted

This fair is yearly increasing in importance, and is, I think, of great use to the neighbouring villagers. Only half the customary dues are levied on goods sold during the fair, which has been the means of inducing a large number of traders to attend with merchandise for sale

11 *Araon and Miana*—These two pergunnahs, which were granted in jaghire by the Maharaja Scindia to his aunt and cousin, have been somewhat better managed during the past 12 months than usual. This is owing to the exertions of Gunput Rao Balaishun, the Kamasdar of Araon, who is an intelligent, well disposed official, and striving to carry out his duties in an honest straightforward manner

His powers however, are much limited, and orders are frequently issued by his superiors at Gwalior, which he finds difficulty in executing without incurring the risk of having to deal somewhat harshly with the zemindars under his charge

12 The levy of excessive duties alluded to in my predecessor's last report still somewhat presses on several of the traders. This matter has been frequently brought to the notice of the Durbar, but as yet no decided order has been passed regarding it. An Agent, however, has lately arrived from Gwalior, with power to settle the question. I trust therefore no further pretext for delay in adjustment will be again put forward

13 *Chyppra*—This pergunnah, which belongs to the Nawab of Tonk, is one of the best conducted and supervised under my Agency

The Amil, Mahomed Aman Khan, a near relative of the Nawab, deserves great credit for his satisfactory and able management. It is a pleasure to visit this district, which is a well cultivated one, and where in all directions the villagers appear justly treated and contented

The Nawab, accompanied by able advisers, has lately made a tour through his territory, and I was glad to be able to make his acquaintance when at survey last month.

14. *Ragugurh*.—I visited this district in December.

15. *Parone*.—Raja Man Sing's territory has been fairly managed. Certain rights in collection of taxes, which formerly were levied by him, under authority, at Nurwur, have lately been confiscated by the order of the Soubah of that district. A representation of the same has been made to the Maharaja, and I trust ere long to hear that sanction has been given for the adjustment of the Raja's claims.

16. *Gurrah*.—The condition of this State is satisfactory. The Raja himself takes great interest in affairs, and is aided by the advice of Dewan Dowlut Ram, a trustworthy man.

I visited the villages of Muriaghur and Jhukar in March last; a special report on that boundary dispute has been submitted to you.

A fracas took place a short time ago between some men of this district and a party of Bheels of the adjoining territory, in which one of the latter was shot. The case is now under investigation.

17. *Omri*.—There is not much to mention regarding this petty State, which consists of a few villages only.

18. *Bhadora*.—Everything here continues satisfactory.

A marriage has just been completed between the Raja's only son and the daughter of the Gurrah Chief.

19. *Sirsi*.—Affairs of this State are not progressing as they should. The young Dewan is a minor of about eight years of age, and his uncle, Chunder Ban, was appointed last year to superintend the management during the minority.

I visited this district last December accompanied by the Gwalior Vakeel, when an investigation of the accounts of past year took place. The property is capable of great improvement, but the Superintendent is sadly negligent. I had warned him that if improvement does not shortly take place, he will not be permitted to retain his position.

20. Girwun Sing, a younger brother of Chunder Ban, has been adopted by the widow of the late Nowrunjun Sing as her heir. In accordance, therefore, with her expressed wish the two villages of Dustolee and Salowdha have lately, with my sanction, been made over to him. This has somewhat relieved the expenditure from the Dewan's treasury, and will prevent any quarrel arising between the brothers regarding the amount of income requisite for his support.

21. Rumours reached me last winter that some notorious dacoits had found shelter in this State. I therefore called on the Manager, Chunder Ban, for explanation, and pointed out that in the event of his not affording satisfactory aid in the capture of these men, he would be held responsible and have to answer to Government.

At first he was inclined to be dilatory, but afterwards through information derived from him I obtained a clue to their movements, and eventually was able to effect the capture, in the Oodeypoor District, of two of the ringleaders of the gang, and cause the suppression of the rest of the band.

For the capture of these men Government was pleased to grant a reward of Rupees 1,000, a moiety of which was awarded to Duffadar Dundi Khan of the 2nd Regiment, Central India Horse, for the gallant conduct displayed by him in arresting these men single-handed, although twice wounded with a tulwar in so doing

MISCELLANEOUS

22 *Public Works*—Repairs have been made to the different Cantonment Roads, and several hundred trees planted along them

The establishment of two staging bungalows has been maintained

A new serai has just been completed at Ghora Pachar on the Agra and Bombay road from a sum of money granted by the Maharaja Scindia

This has been built under the immediate supervision of Kote Duffadar Bulwunt Rao, Central India Horse, who has taken great care and trouble in his erection of the same

A well, which was much needed, has also been sunk on the encamping ground Funds for same have been advanced from the income derivable from the Goonah serai

The other serais and bungalows have been kept in a state of repair

23 *Communications*—No serious case of robbery or any interruption to the conveyance of mails or passengers has been reported on the Agra and Bombay road, which is daily patrolled by sowars of the 1st Central India Horse

Five cases of petty robbery have occurred on the district roads, for one of which compensation has been allowed In the others, which took place on the borders of two States, no trace of the thieves could be obtained, or the theft brought home to any particular district.

24 *Post*—Postal arrangements have been carried out in a satisfactory manner The Deputy Postmaster, an energetic and hard working man, was for a time transferred to the Jhansa District, but he has now again resumed his old appointment

25 *Dispensary*—The Goonah Charitable Hospital is maintained by His Highness Scindia, for which an allowance of Rupees 98 is monthly granted Donations are also made by the different Chiefs and local funds, but the sum, I regret to state, is still inadequate to supply with food the number of patients who avail themselves of its use

The attendance here is annually increasing, and this is entirely owing to the great exertions taken for its success by Dr Keegan of the 2nd Regiment, Central India Horse, for the first half of the year, and latterly by Drs Harvey and Edis of the 1st Regiment

Nine hundred and forty seven patients have been admitted or treated, and 1,321 vaccination have been performed

The number of deaths, thirty-five, shown in the Return, though at first sight somewhat heavy, is attributable to the fact of many poor pilgrims on their way to and from the shrine of Oonkar Nath near

SELECTIONS

FROM THE

Records of the Government of India,

FOREIGN DEPARTMENT.

No. CXXIII.

REPORT

ON THE

POLITICAL ADMINISTRATION

OF THE

TERRITORIES WITHIN

THE

CENTRAL INDIA AGENCY

For the Year 1874-75.

By MAJOR-GENERAL SIR H. D. DALY, K.C.B.,
AGENT TO THE GOVERNOR-GENERAL FOR CENTRAL INDIA.

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REPORT

ON THE

POLITICAL ADMINISTRATION

OF THE

TERRITORIES WITHIN

THE

CENTRAL INDIA AGENCY

For 1874-75

CHAPTER I

REMARKS BY THE AGENT TO THE GOVERNOR GENERAL

THE reports of the Political Officers now submitted treat fairly of the condition of the States of Central India in 1874-75. Large and small, there are 71 States in Central India. With the great Chiefships all are familiar, but there are upwards of 50 less prominent ruled over by Rajpoots, Brahmins and Mahomedans, a Goojur, an Ahir, a Kayeth, a Jogi is also found amongst the rulers in Bundelcund.

plumstone
Peishwa,
n Native

States and the British Government, the change is marked indeed. Change to eager eyes viewing it from day to day often appears slow amongst a people bound to caste and custom. It is only by looking back that we bring home to ourselves how far away the past is and how steady has been progress in comfort and security.

2 At Gwahor one descendant of Jean Baptiste, educated by the present Maharaja Sindia at King's College, London is now displaying ability and taste as an Architect and Director of Education. Another descendant of the same famous soldier is the peaceful administrator of one of Sindia's Provinces.

3. At Indore the Maharaja Holkar has secured the services of an English gentleman, Mr. Carey, as Engineer, and the result is that metalled roads, bridges, and sound drainage are driving out filth, open cess-pools, and disease. The cotton mill established by the Maharaja and worked by Englishmen is a prosperous institution.

Sir Madava Rao, whose services were sought by the Government of India for Baroda, has been replaced by a relation of his own, Ragonath Rao, formerly Deputy Collector of Madras, a practical and earnest man bent on leaving his mark at Indore.

These are instances of light.

4. In Bhopal, too, the tide has set in. In revenue and general administration Bhopal has always been in advance of Indore, but hitherto Bhopal has been isolated without roads or means of communication with the rail or the trunk road, for there was not a metalled mile in the State outside the city. Shah Jehan Begum has put her hand to remove this reproach, and a road is under construction, which, crossing the Vindhya, will place the Begum's capital within a day's drive of the Great Indian Peninsula Railway.

Her Highness has also promised to complete a road to the west, which will link her grain-producing districts with the rail at Oojein and Indore.

5. The effect of railways on the comfort of the people in Malwa is not to be computed.

As poppy cultivation has increased, they have become year by year more dependent for grain food on bunjaras; a short rain-fall or an excessive rain-fall on the black soil stops this mode of transport: in one case there is no grass for the bullocks, and in the other the country impassable. For years in succession wheat was at famine prices and rice at these. Already there is frequently more grain on the Holkar State Railway than the single line can carry. The effect of abundance of good food on the tone of the people will tell on their physique; it has been the scarcity of this which has led the poor to resort to opium in excess.

In years past when advocating railway progress through Malwa, my modest estimates of the traffic were deemed imaginary. Collections awaiting transport at Khundwa on the Great Indian Peninsula and at the Choral Station at the foot of the Vindhya now show how far short my ideal was of the reality.

By May 1877 we may fairly look to the completion of the Ghât work and Nerbudda Bridge; these great works will place Indore and Oojein in communication with the Great Indian Peninsula, and leave the Holkar State Railway more traffic than a single line can bear. Our progress in construction has been less rapid than was anticipated, and but for Sir Madava Rao progress on the Holkar State Railway would have been impossible. The obstacles thrown in the way by Holkar's officials levying dues and extortionate charges would have swamped contractors and engineers. Sir Madava Rao swept these away and gave loyal support to the undertaking. His successor is equally mindful.

In the interests of the people, in the interests of economy of construction, I would urge that no time be lost in completing the line to Rutlam

The effect of the rail on the opium trade will be to swell the Chief's revenues and our own, and to place it upon a sound footing, for the cultivation will no longer be at the risk of diminishing the wholesome food of the labouring classes

6 The spirited Maharaja of Punnah, whose intelligent acts to improve his State it has often been my pleasant duty to report, is engaged on a work in Bundelcund which will be of imperial importance. Hitherto the Ghâts between Punnah and Banda have been a barrier to traffic and communication other than that carried on by man or beast. There are two passes—the Singhur, a short and steep pass belonging to Adjeighur, and the long and rugged one of Bisramgunge belonging to Punnah. In all past time with difficulty could a laden bullock toil over these passes into the plains below, the distance between Adjeighur and Punnah is about 17 miles.

The Maharaja of Punnah placed the delineation of the road in the hands of the Political Agent, Dr. Stratton, who took it up as a labor of love and with ability worthy the undertaking.

The road courses through picturesque scenery, it is everywhere sufficiently wide to admit of two carts passing abreast, and nowhere is the gradient steeper than 1 in 25.

7 The Maharaja of Adjeighur, seeing the benefits open, placed himself similarly in Dr. Stratton's hands for cutting a road through the Singhur Pass about a mile in extent. Both roads are now near completion and open to traffic.

Colonel Cadell, the Chief Engineer, inspected the line at my instance some months ago, and described the work as one of which any engineer might be proud.

Mr. White, an able engineer, to whom has been entrusted the duty of cutting a carriage road across the range of Ghât which divides Punnah and Sutna from the cantonment of Nowgong, has lately reported upon the Bisramgunge and Singhur road, and considers it a work of skill and merit.

Dr. Stratton personally laid down the line, leaving the execution and payment of labor with the Chiefs. There has been no complaint anywhere, the work has been well done and labor readily given.

The effect of this undertaking and the completion between Sutna, on the East Indian Railway, and Nowgong, in the heart of the Province (100 miles), will be in Bundelcund. Hitherto it has been difficult to get to the people in the interior are apathetic and much land is famine has been in the country since the terrible trials of the people have habituated themselves to subsist on the and jungle berries.

8 *Opium*—Forty seven thousand nine hundred and chests passed the scales for export to China during the year 31st March last, the largest outturn on record.

3. At Indore the Maharaja Holkar has secured the services of an English gentleman, Mr. Carey, as Engineer, and the result is that metalled roads, bridges, and sound drainage are driving out filth, open cess-pools, and disease. The cotton mill established by the Maharaja and worked by Englishmen is a prosperous institution.

Sir Madava Rao, whose services were sought by the Government of India for Baroda, has been replaced by a relation of his own, Ragonath Rao, formerly Deputy Collector of Madras, a practical and earnest man bent on leaving his mark at Indore.

These are instances of light.

4. In Bhopal, too, the tide has set in. In revenue and general administration Bhopal has always been in advance of Indore, but hitherto Bhopal has been isolated without roads or means of communication with the rail or the trunk road, for there was not a metalled mile in the State outside the city. Shah Jehan Begum has put her hand to remove this reproach, and a road is under construction, which, crossing the Vindhya, will place the Begum's capital within a day's drive of the Great Indian Peninsula Railway.

Her Highness has also promised to complete a road to the west, which will link her grain-producing districts with the rail at Oojein and Indore.

5. The effect of railways on the comfort of the people in Malwa is not to be computed.

As poppy cultivation has increased, they have become year by year more dependent for grain food on bunjaras; a short rain-fall or an excessive rain-fall on the black soil stops this mode of transport: in one case there is no grass for the bullocks, and in the other the country is impassable. For years in succession wheat was at famine prices and rice at these. Already there is frequently more grain on the Holkar State Railway than the single line can carry. The effect of abundance of good food on the tone of the people will tell on their physique; it has been the scarcity of this which has led the poor to resort to opium in excess.

In years past when advocating railway progress through Malwa, my modest estimates of the traffic were deemed imaginary. Collections awaiting transport at Khundwa on the Great Indian Peninsula and at the Choral Station at the foot of the Vindhya now show how far short my ideal was of the reality.

By May 1877 we may fairly look to the completion of the Ghât work and Nerbudda Bridge; these great works will place Indore and Oojein in communication with the Great Indian Peninsula, and leave the Holkar State Railway more traffic than a single line can bear. Our progress in construction has been less rapid than was anticipated, and but for Sir Madava Rao progress on the Holkar State Railway would have been impossible. The obstacles thrown in the way by Holkar's officials levying dues and extortionate charges would have swamped contractors and engineers. Sir Madava Rao swept these away and gave loyal support to the undertaking. His successor is equally mindful.

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The effect of this undertaking and the completion of the road between Sutna, on the East Indian Railway, and Nowgong, the cantonment in the heart of the Province (100 miles), will alter the face of Bundelcund. Hitherto it has been difficult to get produce in or out, the people in the interior are apathetic and much land is waste. Chronic famine has been in the country since the terrible trials of 1869-70, and the people have habituated themselves to subsist on the poorest grain and jungle berries

8 Opium—Forty seven thousand nine hundred and eighty-two chests passed the scales for export to China during the year which closed 31st March last, the largest outturn on record

left by his father, had done his part well. Captain Maitland by courtesy and frank speech had gained influence, and the Maharaja, though still averse to his father's friends, is no longer the tool of those who pandering and toadying to his passions sought their own ends.

The Chief discussed all State affairs with Captain Maitland, and is not unconscious of benefits derived from his friendly presence.

In a few months the task which Captain Maitland was put to do—to steady the young Chief in the first exercise of power—will be accomplished and the object of Government attained, he will then be withdrawn.

12 The neighbouring State of Chutterpoor, of which the Chief is but nine years old, is admirably managed by Dhunput Rai, who qualified himself for the position in the North-West Government. Improvements are everywhere visible. Advised by Dr Stratton, works of irrigation are in action, the benefits of which are immediate. Dr Stratton has given his attention to the restoration of several of the famous tanks long dilapidated, for which Bundelcund before the incursion of the Mahrattas was famous.

13 Each State in Bundelcund has an interest of its own. If, off the line of road, and with little outside intercourse, time has brought little change, everything is pretty much as it was years ago, except that property is fairly secure, and with the exception of here and there a notorious outlaw from our territory or jails, there is little disturbance. Punnah is always a pleasant State to visit, everything betokens civilization and progress. Agriculture, architecture, roads, all mark the State. The relations between the Chief and his people towards his father's old Minister and towards his brothers are alike pleasing.

Dr Stratton has done much to help the healthy tendencies of Punnah.

The reports attached deal fully with affairs, therefore I give but the briefest narrative of my own tour, during which I saw every Chief, great and small, in the Province.

14 From Punnah I passed on to Rewah, where I was met by the Political Agent, Major Bannerman, and the Maharaja. The affairs of Rewah need no description here, they have long been dark.

The Maharaja after much discussion proposed to make Rewah over to management without reservation. At first he desired to retain control of his lawless Poorbia troops, but this was eventually given up. His own allowance suitable to dignity was settled, and of his own accord he gladly withdrew from affairs, giving in writing his desire that the State should be managed by the Political Agent, to whom he would afford all support, and with whose orders he would not interfere.

After this paper was signed in the presence of his principal Sirdars the Maharaja said: "Now I shall sleep at ease and enjoy sport, for years past the worry of affairs and the consciousness of being plundered have made me miserable."

15 The effect seems to be
amongst his people and at his

CHAPTER II

REPORT ON THE INDORE STATE BY THE FIRST ASSISTANT AGENT TO THE GOVERNOR GENERAL FOR CENTRAL INDIA

RAGONATH RAO, the newly appointed Minister to His Highness Maharaja Holkar, has supplied a brief memorandum of the administration of Indore during the past year. As he only succeeded his cousin, Sir Madava Rao, in May last, he is unable to write much on the subject.

2 Last year Sir Madava Rao noted with satisfaction the institution of courts of law in the State.

He mentioned a Sudder Court at Indore presided over by two Judges of "liberal English education" and "special knowledge of the science and practice of law," three Zillah Judges at Indore, Mundlasisir, and Rampoora, an extra temporary Judge to clear off arrears at Indore, and the contemplated appointment of another Judge for Nimawur. In all real and prospective—seven Judges.

Ragonath Rao records the distribution of 65 Judges and 98 Magistrates.

These appointments are however merely nominal, there has been no sudden diffusion of judicial talent into the State, and the Minister would have been more accurate had he written that magisterial powers were distributed among a certain number of local officials. The Judges and Magistrates were formerly known as Ameens and Vehiwaitdars, and district matters have drifted on under them much the same as usual in spite of the change in denomination.

3 There have been some changes in the items of State expenditure.

The cost of the army, shown last year as Rupees 12,28,000 is entered in the accounts now forwarded as Rupees 8,54,000. The Minister explains that 1,324 horses and 1,066 men have been transferred to the Police, the expense of which establishment is now shown at Rupees 5,03,000 as compared with Rupees 1,34,000 last year. This is a distinction without a difference, for the expenditure on army and police collectively is only Rupees 5,000, less than it was last year.

4 The army has never been equipped or drilled sufficiently to render it more efficient than ordinary police, and the transfer of a body of men and horses from the army to the police has made no material change in the position. The fact remains that over 12 lakhs are spent annually on a force which is not necessary for State requirements.

5 The State finances show a slight increase in receipts—from Rupees 49,22,000 in 1873-74 to Rupees 50,00,000 this year. The expenditure—including 11 lakhs, the year's instalment of the railway loan, and Rupees 2,38,000, the last payment in capitalization of the Indore contribution to contingents—is Rupees 54,95,000, a sum nearly five lakhs in excess of the income and Rupees 1,83,000 more than last

year. A saving is shown in civil establishments of more than 2½ lakhs, and in public works of nearly one lakh.

5. The cost of education (Rupees 28,000) still bears but a poor relation to expenditure on other objects.

The Minister writes that "owing to the ignorance of the masses very little was done towards disseminating education among them." His Highness has sanctioned an increase of Rupees 12,000, but this is not shown in the accounts for the year.

6. The land revenue collected was Rupees 33,86,000, nearly Rupees 80,000 more than last year, and the remissions, *i.e.*, uncollected revenue, amounted to Rupees 2,61,000, or Rupees 57,000 more than in 1873-74. This item represents over assessment of land rather than failure of crops, for remissions are not made when the prospects of cultivation are injured, but when all hopes of collection of land revenue have failed.

During the year there has been an exemplification of the manner in which assessments are raised. The Pergunnahs of Nimar (Mundlaisir, Dhurgaon, Kusrawud, Burwai) were made over in exchange to the Indore Durbar in 1867, they were then under a ryotwaree settlement of 20 years made in 1855. The yearly revenue accruing being Rupees 43,124.

The settlement fell in lately, and a new arrangement has been made by the Maharaja, by which the revenues of these pergunnahs have been more than trebled.

7. Considerable advancement has been made in public works. The Durbar is fortunate in securing the services of Mr. Carey for a fixed period. He works with much tact, and is energetic and anxious to see good results. The Minister quotes from a report by Dr. Beaumont bearing testimony to the great improvements in the sanitary condition of the city which have taken place during the last two years.

Indore is fast losing the character borne for many years. The streets are now drained and lighted, roads metalled and kept in order, and measures are taken for preserving cleanliness.

8. The city dispensary under Dr. Beaumont's supervision is largely attended, and is a real blessing to the inhabitants of Indore.

The Maharaja has liberally given Rupees 10,000 for the building of a new dispensary, which, with the increasing demands of the people for medical aid, is much required.

9. A new jail on the Government standard plan is being built on a good site outside the city, when this is ready a great want will be supplied; in the meantime it is satisfactory to note that the jails at present in existence have been improved, and the treatment of prisoners, male and female, raised to a higher standard.

10. The chief event during the year was Maharaja Holkar's visit to Calcutta, where he had the honor of being received by His Excellency the Viceroy. His Highness left Indore on 2nd February, and was accompanied by his two sons, his Minister Sir Madava Rao, and a large following. He was attended during his visit by Lieutenant Durand, 2nd Assistant Agent to the Governor-General. After spending ten days

at Calcutta, the Maharaja returned to Indore on 15th March, having visited Benares, Allahabad, and Jubbulpoor on his way, and exchanged civilities with the following Chiefs —

Maharaja of Rewah	Maharaja of Vizianagram
Raja of Burdwan	Jung Bahadoo
Chief of Ramnuggur	

MEMORANDUM BY RAGONATH RAO, MINISTER TO HIS HIGHNESS
MAHARAJA HOLKAR

THE Durbar was presided over up to 1st May 1875 by SH T Madava Rao and since then by Ragonath Rao. Perfect unanimity prevails among the members of the Durbar, which enjoys the confidence of the Maharaja, whose supervision over it is as efficient as hitherto.

2 Throughout the kingdom are distributed 65 Judges and 98 Magistrates, who have been distributing justice in a decent manner.

3 There are 28 Revenue Officers holding powers similar to those of the Tehsildars and Collectors in the British territories.

4 The postal system continues the same as during the last year, but a scheme for improving it is under the consideration of the Durbar. Owing to the existence of several detached pieces of territory separated from each other by other independent States, there are great difficulties in developing this department.

5 Mr Carey, the Chief Engineer of the State, reports that the Dhar and Depalpool roads have been almost completed, that several improvements have taken place in the city, that several large and small drains have been built and that the Sewer road being a feeder to the Railway Station of Baroda on the Neemuch State Railway, has been commenced, and the earth work on nine miles was completed about the middle of June. Two causeways and a bridge were built during the year. Water pipes are being laid to carry canal water to several parts of the town. Quite $6\frac{1}{2}$ miles of roads have been planted with avenue trees. Foundations of a new jail to hold 400 prisoners are being laid. It may cost more than one and a quarter lakhs of rupees. He further reports that he accompanied Captain Hope to watch the demarcation of certain boundaries between this and the Dhar territories.

Mr Carey has done a good deal of work in the year, and the thanks of the Durbar are due to this gentleman. The sum spent by this officer amounts to Rupees 2,41,000 in the year under review.

His Highness has been contemplating irrigation works on an extensive scale, and the Chief Engineer has been asked to submit several schemes thereof.

6 The police has done its work and effectually helped in detecting crimes committed in British territories and arresting the dacoits taking shelter in the Indore Provinces.

7 Dr Beaumont's report contains the following —

"The dispensary of the city of Indore still heads the list as having the largest number of patients and being in the centre of a large city. They would be still more numerous were the accommodation better, the

old dwelling house used as a dispensary being very inconvenient indeed for some time. Since the number of patients has become large, there is often not standing room in the premises for them all. I lately brought to the notice of His Highness the Maharaja the urgent want of a more commodious building for the dispensary, when he most liberally undertook to build a new dispensary, and has sanctioned an expenditure of Rupees 10,000 for this purpose, and as soon as a suitable site has been found, the building will be commenced. I should here, I think, bring to your notice the great improvements which have been made in the city of Indore within the last two years—well constructed drains have been made throughout the greater part of the city, the streets, and roads levelled and properly metalled; an efficient staff of sweepers and carts are maintained for the removal of all refuse.

“The streets are well lighted by kerosine lamps, and in the dry season kept watered; altogether its condition will compare not unfavorably with most cities under Native rule.

“A new jail is being built on a suitable site outside the city, which will accommodate all the long term prisoners. The new jail will be constructed on the standard plan for British jails of the same size.

“The jails in the city in which the prisoners are at present confined have been improved, and made as comfortable as the original construction of the buildings will admit. The female prisoners have been removed into a large native two storeyed house in the form of a quadrangle with a central court-yard, which affords them most ample accommodation. They have the lower storey as work and day rooms, and sleep above at night, so they are most comfortably lodged.

“The internal economy of the jails, food and clothing of the prisoners, are now just the same as in the jails of British India. The prisoners are very healthy. Not more than 3 per cent. of them are, as a rule, on the sick list.”

8. The collections of the Fuslee year 1283 are as follows :—

Sources of revenue.				Amount collected in round numbers.	REMARKS.
				<i>Halee Rs.</i>	
Land	...	...	...	33,86,000	
Customs	...	...	...	6,30,000	
Abkaree	...	...	...	1,17,000	
Tributes	...	...	...	1,58,000	
Stamps	...	...	...	48,000	
Fines	...	...	...	54,000	
Cotton Mill	...	...	...	71,000	
Interest	...	...	...	3,20,000	
Miscellaneous	...	...	...	2,08,000	
Post Office	...	...	...	4,000	
Mint	...	...	...	4,000	
Total Rupees				50,00,000	

The charges are particularized below —

Items	Actual expenditure	REMARKS
	<i>Rupees</i>	
Place	10,20,000	
Civil Establishment	7,03,000	
Religious	33,000	
Charitable	1,13,000	
Army	8,51,000	Caused by reduction and transfer to the Police
Police	5,03,000	
Courts	79,000	
Public	22,000	
Education	28,000	
Post Office	14,000	
Survey	20,000	
Public Works	1,50,000	
Hospitals	12,000	
Pensions	9,000	
Railway	11,00,000	
Capitalization of Contingent	2,38,000	
Commissions	2,61,000	
Cotton Mill	1,87,000	
Miscellaneous	1,43,000	
Total Rupees	54,95,000	

9 The revised system of customs described last year has not yet had a fair trial. It is hoped that it will prove a considerable improvement on the system which it has superseded.

10. Of the army, one thousand three hundred and twenty-four horses and one thousand and sixty-six men are doing police work, and form a branch of the police

of the masses very little was done in the year, anxious as His Highness was to see that His Highness was graciously pleased to do so on by Rupees 12,000.

12. The season was not favorable for agricultural purposes, and hence arose the necessity of granting large remissions.

13. The Jaghirdars, Inamdars, Tankadars, &c, have not yet been sufficiently enlightened to afford aid to the police in reporting crimes, detecting offences and arresting the malefactors of the kingdom. They are apparently under an impression that they may avoid these duties under the pretence of their emoluments being guaranteed to them by the British Government. They have however slowly begun to see that they have a duty to perform, and the British representatives will not help them to evade them.

14 A village police is being reorganized

15. The forests are being conserved by the Chief Engineer, Mr. Carey.

16 A Survey Department is being formed to survey Nimawur at a cost of Rupees 1,25,000.

CHAPTER III.

REVIEW OF REPORTS OF POLITICAL OFFICERS.

1. *Gwalior*.—The rain-fall for the year has been 56·6 inches. A severe storm on the 15th February did much damage to the gram crops. There was no winter rain, but the crops on the whole have been fair. The general health has been good, but for some months small-pox of a mild type was prevalent in the Lushkur and the neighbouring districts.

2. In April the Maharaja, falling ill while at Cawnpoor, went to Lucknow to consult Dr. Macbeth, who was permitted by Government to accompany His Highness to Gwalior. In June the Maharaja held a great Durbar to commemorate his recovery, and convey to Dr. Macbeth his appreciation of his skill, which approval took a substantial form.

3. On the 22nd October last much excitement was caused by the apprehension of the supposed Nana. The Political Agent remarks that there can be no doubt the Maharaja was in this matter made the victim of a deep-laid conspiracy on the part of certain persons in Gwalior.

4. On the 15th February the Maharaja married the daughter of Bapoo-Sahib Jadow, a relation of his own.

5. On the 18th February the Maharaja left Parsun, where he was holding a Camp of Exercise, for Baroda, to sit as a Member of the Commission.

The Camp of Exercise at Parsun consisted of—

Artillery ...	...	...	8 batteries.
Cavalry ...	...	...	2,000 sowars.
Infantry ...	...	...	5,000 men.

It was broken up on the 18th February in consequence of His Highness' departure for Baroda. His Highness' regular troops are distributed as follows :—

	<i>Artillery.</i>	<i>Cavalry.</i>	<i>Infantry.</i>
Malwa ...	...	...	...
Esaghur, Pichore, Jhansie District ...	1 Battery.	$\frac{1}{2}$ Regiment.	1 Regiment.
Gird Gwalior ...	1 " "	1 " "	1 " "
	1 " "	...	1 " "

The troops are well drilled and the artillery steady and efficient.

6. The line of railway to Agra is being marked out. The site of the terminus was settled in December during my visit.

During the year the Durbar has paid 75 lakhs on account of the Neemuch Railway.

7. The Durbar has been using its utmost endeavours to put down the gangs of dacoits which infest not only its own territory but the neighbouring districts of Jhansie, Jaloun, Bundelcund, &c.

The arrangements entered into with the Durbar for the apprehension of thieves escaping from Morar has worked admirably.

8. *Petty Chiefs, Thakoors, &c.*—The case of the Agra Burkhera Thakoor, which has been pending for some years, has been satisfactorily arranged. The Thakoor having presented himself before the Durbar, his arrears amounting to Rupees 23,354-11 were remitted.

The Lalghur Thakoor's case is still pending, and will be reported on hereafter.

The Thakoor of Dhabla Kheree has been to Gwalior to pay his respects to the Maharaja, and receive the sunnud for two villages granted to him.

There are some cases still pending between the Durbar and the Dewan of Susee, which the Political Agent hopes ere long to have adjusted

BHOPAL AGENCY.

districts in this Agency has obberies, and there have been none of these can be properly called mail robberies, inasmuch as the mail bag itself does not seem to have been the object of the thieves, nor has a single parcel or letter been stolen.

10 Consequent on the prevalence of dacoities on the roads leading across the Vindhya range from Bhopal to British territory, mentioned by the Political Agent in his last year's report, Her Highness the Begum deputed a force to watch the fords of the Nerbudda and the principal roads and strengthened the guards on the western frontier. Since these measures were adopted, dacoities have almost ceased on the Hunda and Hoshungabad road and in Bhopal. While to the west of the frontier, in Sonelutch, and the neighbourhood of Tuppa, gang robberies have increased in frequency. The attention of the Gwalior local authorities was called to this increase of crime, but no steps were taken by the officials. The Indore and Sehore road became the scene of numerous robberies, dacoities having occurred almost simultaneously in Hurda, Tuppa, and Nimawur. Some activity was displayed, and forces were despatched to their frontiers by the States of Gwalior, Indore, and Bhopal. For a time the country was quiet and safe, but the Gwalior officials having again reduced their force at Sonelutch, and the Political Agent fears that the tranquillity will prove only temporary.

11 The rain fall was unusually heavy, amounting to 65.7 inches, about 12 inches over the average. Falling almost without intermission in the months of July and August, and clearing off in September, injury was caused to the rain crops. On the whole, both autumn and spring harvests have been rather light, but not so much so as to cause distress among the lower classes of people. There has been no epidemic disease, nor any unusual sickness.

12 *Bhopal*—The management of the State has been, on the whole, satisfactory

The event of the year has been the marriage of Her Highness the Sultan Jehan Begum, only daughter and heiress of the ruling Begum, to Miran Ahmed Ali Khan, a native of Jelallabad in the Mozuffernugur District. The ceremony of *nikah* was performed on the 1st February in full Durbar, and in the presence of the European visitors invited by Her Highness.

The rejoicings lasted several days.

13. The water-works which have been constructed by the liberality of the Kudsia Begum are now in full work, and prove a great boon to the inhabitants of the city.

14. Eight years ago a 20 years' land settlement was effected by the late Secunder Begum, who, the next year, notified that possibly a professional survey would be made, and an increase or reduction follow according to the classification of the soil and the results of the survey. A so-called professional survey has now been carried out, and not only has an incredible increase been made in the classification of the best kind of soil, but the rates for each kind have been enhanced also. The Political Agent remarks that the leases have, in fact, been broken before the expiry of the term, and a new settlement made.

15. *Rajghur*.—The Political Agent visited this State in the cold weather. He reports that the administration has been satisfactory. There are dissensions between this State and Nursinghur regarding the division of transit duties. The Nawab visited Nursinghur in March, and the Political Agent hopes that this meeting may result in a better feeling between the two States.

16. *Nursinghur*.—There have been no alterations in the condition and management of this State during the year. The Raja Purtab Sing is young, fond of field-sport, and not keen about public business, but there is little to complain about. He has built a guard-house for the Central India Horse Guard stationed on the Agra and Bombay road at Pachore, and contemplates building a serai there which is much needed.

17. *Kilcheepoor*.—The Rao is jealous that his neighbours of Rajghur and Nursinghur enjoy salutes of 11 guns, and he does not. He has been allowed to purchase 40 stand-of-arms from a Government arsenal for a body-guard which he has lately raised in lieu of Afghans who have been dismissed. There has been a dispute between the Chief and some of his jaghirdars regarding the amount of service to be rendered by them, but a compromise has been effected and the matter settled.

18. *Koorwai*.—The Government of India have sanctioned the arrangement wished for by the Chief, that the succession should pass to Monover Ali Khan, son of his eldest daughter, who is married to Muzher Ali Khan, half-brother of the Chief of Basoda. The heir is a boy of about five years old.

The Nawab has subscribed Rupees 600 towards establishing a dispensary at Koorwai. Some of the Nawab's villages are isolated in Gwalior territory, and he complained of the action of the Gwalior tax collectors. Enquiries showing that the complaints were just, remonstrances have been addressed to the Gwalior Durbar.

19. *Muwoodunghur*.—This State is administered by the widow of the late Chief. It is in a backward condition.

20. *Pathari*.—The Nawab is young, fond of field-sports, and well meaning, but without much ability.

21 *Mahomedghur*—The State of things has not changed since last year

22 *Basoda* has been satisfactorily managed

23 *Larawut* continues under the direct management of the Bhopal Political Agency, and is in a satisfactory state

24 *Soondursee* is divided into three parts *Sindia* and *Holkar* have each $38\frac{1}{2}$ per cent, and *Dewas* has 23 per cent. Though *Sindia's* and *Holkar's* shares are equal, the latter collects just double the revenue collected by the former

25 *Sindia's Districts*—The large Pergunnah of *Sonekutch*, about half of which is held in jaghu by *Angira Sahib*, one of *Sindia's* Sirdars, has been the resort of dacoits, with whom the ordinary police force maintained in the pergunnah have been powerless to cope. No extraordinary crime has been reported from the other pergunnahs. The *Thanadars* are poorly paid, and the number of sepoys insufficient

The Appa Sahib *Angira* is a powerful non resident Sirdar, held in esteem by *Sindia*, who is therefore chary of interfering in the affairs of his jaghir. *Sindia* has, however, directed the attention of the Sir Soobah of *Malwa* to the administration of *Sonekutch*

26 *Holkar's Districts*—It appears that the same dacoits who frequented *Sonekutch* also visited *Nimawur*. No complaints have been made regarding the other pergunnahs

27 *Serony*—The former Amil has lately been transferred, and the Political Agent hopes that the new Amil, Captain Saadut Ali Khan, will free the pergunnah from the reproach of being a haunt of thieves and cattle lifters

28 *Sarungpoor* *—The Political Agent hopes that the condition of this district may be improved by the creation of a fine serai under the auspices of Major Martin in the town. Hitherto there having been no secure halting place for travellers and merchandise, the town has been a favourite resort of thieves

GUARANTEED THAKOORS, &c

29 The estate of *Tuppa* is under the management of the Political Agent. The young Thakoor, *Tukht Sing*, has been educated at the *Sehore School*, and is now 18 years of age. The Political Agent has sent him to reside at *Tuppa* in order to become acquainted with the working of the estate. There is still a small portion of the debt on the estate to be paid

30 The village of *Khajoorce* is also under the management of the Agency during the minority of *Karim Buksh Pindara*, who is at the *Sehore School*

31 *Seodhan Sing* of *Sootaha*, not being on good terms with his son, has this year resumed the management of the estate

The concessions made to the Thakoor of *Agra Burkhara* by *Maharaja Sindia* are noticed in the *Gwahor* report

32. There have been no alterations among the other guaranteed holders under the Bhopal Agency. Maharaja Sindia has consented to restore the village of Sadunkheree to a well conducted son of Lall Sing, late of Dhabla Dheer, at an annual rent of Rupees 1,000 (the rent being now Rupees 1,700).

BUNDELCUND AGENCY.

33. Dr. Stratton reports yet another unsatisfactory season in Bundelcund. The rainfall was over the average, but nearly the whole of the 53 inches registered during the year fell within four months between June and September, and to the general failure of the cold weather rain is ascribed the scarcity in the outturn of the spring crops. The kans—bindweed—described by Dr. Stratton as “the plague of Bundelcund cultivation,” still holds possession of large areas.

The mahooa crop fortunately turned out fairly, and, on the whole, though some districts continue to suffer severely, there is a slight indication of improvement in the condition of the States.

The health of the district was fair, though the eastern portion of the Agency suffered somewhat from small-pox.

One Chief—Choubey Mukund Sing, Jaghiredar of Paldeo—died during the year. He was succeeded by his brother Choubey Anrudh Sing.

34. *Oorcha or Tehree.*—The young Chief, Pertab Sing, has been aided, during the first year of his administration of his State, by the advice of Major Mayne, who was deputed in June 1874 as Political Assistant at Tehree.

Dr. Stratton notices the birth of a son and heir to the Chief, the first event of the kind that has occurred to an occupant of the Oorcha guddee during the last three quarters of a century.

One of the State difficulties was the conflict for sole power between new and old officials: under the late Chief the new had acquired exclusive influence, but on the accession of Pertab Sing the position was reversed. The old officials have been reinstated, the new sent adrift.

The disputes between the Durbar and the Kantur Thakoor have been adjusted. The Thakoors submitted, and the Durbar then made some improvements in the terms of their quit-rent and service. A full report of the administration of this ancient State will be submitted hereafter.

Throughout the year Rundheer Sing and his gang of dacoits caused much trouble to Tehree. It is satisfactory to note that the exertions of the Durbar were acknowledged by His Honor the Lieutenant-Governor, North-Western Provinces, as having aided the persistent pursuit which has terminated in the destruction of the whole gang.

35. *Duttia.*—The system of administration has not improved, and is gradually lapsing from the method introduced during the Superintendency to the uncertain and vacillating rule too common with Native States.

Agriculture and revenue have had to contend with a succession of bad years. The debt now equals a year's income and establishments are in arrears. Dr Stratton points out the error lately made in separating districts from the general control of the Durbar, with the intention of providing for the expenses of departments by the assignment of the proceeds. One such assignment has been made with a view to clearing off the State debt. There is not sufficient intelligence and care among the Durbar officials, who hold these separate charges to warrant a hope of success for the plan. Though there are not wanting men of ability and power in the Durbar, the Maharaja is disposed to listen to the advice of those whose interests are immediately concerned, and acts without consulting those who are best able to guide him.

The Political Agent reports that great improvements have lately been made in the town of Duttia.

The State has done good service in arresting dacoits of adjoining territory.

36 *Punnah*—The intelligent young Chief goes on well, his State is prosperous and people contented.

37 *Ayglur*—The struggle to clear the State of debt continues. Plans are fair but imperfectly carried out.

38 *Chirkaree*—The young Maharaja was invested with authority in June 1874, having completed his 21st year. Captain Maitland was at the same time deputed to give advice and assistance during the commencement of his administration. The young Chief is careful in money matters, and there is no danger of his squandering the savings of past years.

The Political Agent remarks that a full report by Captain Maitland will shortly be submitted. The state of affairs at Chirkaree and the feeling between the Chief and Captain Maitland are alike happy.

39 *Byawur*—The Chief is superstitious, and under this influence spends more money on propitiatory pilgrimages than he or his State can afford. He has been absent during half the year on such journeys, the result being that his establishment is in arrears, and work has been suspended on a useful road in which he professed to take great interest. With all these drawbacks the Chief stands well with his people, is manly, and never wanting in good feeling.

40 *Chutterpoor*—under the superintendence of Choubey Dhunput Rae—is making steady progress. The finances which suffered from bad seasons are now in a promising state.

Irrigation and road improvements have been attended to.

The young Chief, now eight years old, is more than usually intelligent and self possessed.

41 *Baonee*—Has suffered severely from a continuance of bad years and failure of crops. The revenue has been reduced to nearly one-half of its proper amount. These misfortunes, together with the Nawab's failing health, led him to request that his State might be taken under supervision during his son's minority, and this has been done.

Expenses have been brought within income, and it is hoped that with better seasons the State will soon recover itself.

42. *Jignee and Logassi*—both under the superintendence of Rai Purmesri Doss—are doing well.

BAGHELKUND AGENCY.

43. The general health of the district was good, but Myhere suffered from an outbreak of small-pox. Upwards of 500 people fell victims to this disease, which was aggravated by the inattention of the Chief to vaccination. Towards the end of the year cholera attacked some parts of Rewah, and though not in an epidemic form, there were about 300 cases and upwards of 200 deaths.

The crops were unusually good, as is testified by the fact that prices were 25 per cent. lower than last year.

44. *Rewah*.—Matters have gradually drifted from bad to worse, until, at length, the Maharaja asked that the management of his territory might be undertaken by the Political Agent. The close of the year finds Major Bannerman in charge of Rewah with the task before him of unravelling the accounts of many years of extravagance and mismanagement; establishments and servants are three years in arrears, and there is a large debt to liquidate. This work has been commenced, and arrangements have been made to introduce a better system of administration.

Major Bannerman complains of the unwillingness of the State officials to assist him in getting the confused accounts into order. Nothing else could be expected from these men who have become wealthy in the scramble.

45. *Nagode*.—The Committee of Administration—composed of the Political Agent, the young Chief, Raja Jadoo Bhindee Sing, and his Minister—has worked well. The Chief has been entrusted with more responsibility, and has done fairly well. The old Minister has resigned, finding that his failing health prevented him from carrying on his duties, and at the Raja's suggestion Tufuzzul Hossein, an excellent man, who for many years was of great assistance to the Myhere Chief, has been appointed in his place. The expenditure has been carefully watched, and the best endeavours have been used to get the State out of debt.

46. *Myhere*.—Is free of debt and flourishing. The Chief takes a very great interest in his administration, and is well acquainted with the affairs of his State. Major Bannerman notices that he is inclined to be self-willed and displayed this more especially in the matter of vaccination, the neglect of which resulted in a very serious epidemic of small-pox. I chanced to visit Myhere at this period, and took the opportunity of pointing out to him the saving health of vaccine, in the immunity from death in vaccinated villages, and the mortality amongst children which shocked him at Myhere. The Raja said his own feelings were not opposed to it, seeing the visible benefits, but the prejudice of his race were strong against it, however he promised to make examples by ordering vaccination in his own household. He is resolute and truthful, and I doubt not has given effect to his promise.

47 *Sohawul*—The dispute between the Rans and the brotherhood still continue. There are faults on both sides, but the Chief is ready to take offence and is too persistent in his attempts to exact an obedience which they will not yield and which he cannot enforce.

48 *Kotee*—Is well managed, and the ryots contented and fairly prosperous.

49 *Sidpoora*—This State is under the management of the Political Agent, and has done well during the year.

The receipts were	Rupees 11,726
The expenditure	„ 5,974

including Rupees 1,757 paid towards the liquidation of the State debt, which at present amounts to Rupees 41,990, though it is hoped that an examination will considerably reduce this sum.

WESTERN MALWA AGENCY

50 The general health throughout the Agency was remarkably good. The crops suffered considerably from heavy rain, and a bad grain harvest was succeeded by a partial failure in the yield of opium. High winds setting in at the critical time when the poppy was ready to be operated upon caused much damage.

Major Martin refers to the frequent occurrence of dacoities by Moghceas in Western Malwa, and alludes to the good service done for many years by Resaldar Major Isree Pershad, and more especially to the capture he recently made of a notorious dacoit, Luchmun Jarria, and ten of his gang after a brisk skirmish, in which one of the Central India Horse party under the Resaldar Major was severely wounded, one horse killed, and another injured.

A short description of the system of government in Sindia's Malwa districts, with a notice of the manner in which it works, is a most useful addition to the Political Agent's annual report.

51 *Jowrah*—The Nawab was invested with the full powers of management of his State in May 1874, and has since been doing well. His first act was to confer a jaghir on Huzrut Noor Khan, to whom Jowrah is deeply indebted for many years of careful administration, and who still continues to carry on the duties of Minister. The relation between the Nawab and the Minister is of the happiest kind.

Captain Wilson's deputation as Political Assistant for the first year of the Nawab's administration ended with the year under report. The Government of India has already notified its appreciation of Captain Wilson's services during his five years at Jowrah.

52 *Rutlam*—Major Martin forwards the detailed annual report by the Superintendent, Khan Bahadoor Mir Shahamat Ali, C S I, showing another year of prosperity under his able management. There was a partial failure of the opium and wheat crops, due to the excessive rainfall, but the market prices of food grain have not been affected.

The chief events in the Raja's family have been the death of his mother and grandmother, and the marriage of his sister to the Doongurpoor Chief's son.

land to an influential man of the band, who should be held responsible for the good behaviour of his brotherhood, who were also to receive free grants of land for certain fixed periods and tuccavee advances under his security.

Colonel Kincaid notices the strong belief that still exists in witchcraft among the wilder tribes of Bheels. Several cases of cruelty have been lately brought to light in which those suspected of being possessed with the 'black art' have been forced to go through painful ordeals to prove their innocence or to exorcise the devil. The chief instigators of these brutalities are the Burwas or native medicine-men. It is satisfactory to notice that four of the chief actors in one of these scenes have lately been convicted and sentenced to terms of imprisonment.

The Thakoor of Kuttawarra, who countenanced one of these cruel ordeals, has been fined Rupees 500.

55. *Dhar*—The principal State under the Bheel Agency continues to prosper. The revenue for the past year is reported to have been Rupees 6,80,000. The expenditure Rupees 6,38,000. The cash balance of the State is now Rupees 8,15,000, and of this Rupees 5,96,000 are invested in Government security.

The road which will connect Dhar with the railway at Mhow, by the Neemuch high road, is now approaching completion. The cost of the road and a considerable portion of the expense of building a bridge across the Chumbul at Ghatta Billode has been borne by the Dhar State.

The Raja is pleasant in all relations, tender towards his ryots, and at all times willing to contribute liberally to works of improvement, roads, &c, and works of charity.

56. *Jabooah*—The Chief has not yet reformed his expenditures.

* Income	Rupees 1 26 336	The last year's payments exceeded
Expenditure	, 1 42 560	receipts by Rupees 16,000 *. He seems

to waste his substance upon hungry Meywar Thakoors, who find him an easy prey, for he is proud to acknowledge the relationship and claims of Rajpoot adventurers. Amendment has been promised, and a fixed monthly allowance for these Thakoors has been ordered. The management of State affairs has been good, thanks to the services of Jowalla Pershad, who has for 18 years contrived to avert ruin from Jabooah.

The dispensary and schools of Jabooah are useful institutions.

57. *Ali Raypoor*—The management has been well conducted by the Raja and his Minister, Ru Bahadoor Venkut Ram, and it is pleasant to notice that the Chief and his adviser have worked amicably.

The Minister is a man of great experience, to him Burwanee, of which he was Minister for many years, mainly owes its redemption from ruin. Venkut Ram is almost worshipped by the wild Bheels.

The total income was Rupees 1,28,781, and the expenditure Rupees 1,04,970.

58. *Jobul*—The Raja died on 31st July 1874, and has been succeeded by his son, Seroop Sing, a boy of eight years of age, who will next year attend the Indore Residency School.

The management of this small State is carried on by the Kamdar, who was appointed in 1873 under the supervision of the Bheel Agent. The income was Rupees 17,400, and the ordinary expenditure Rupees 13,100. Rupees 4,200 were expended in the liquidation of the State debt and on the funeral obsequies of the late Rama.

59. *Amjhera*.—Sindia's districts of Dektan, Sagore, Bang, Bakaneer, and Munawur are under the supervision of the Soobah of Amjhera. The Bheel Agent complains of the annoyances he has met with from this official, who has lately been re-called by the Sir Soobah of Malwa. Maladministration and corrupt practices have resulted in discontent among the Bheels of the district. It is hoped that the Soobah may be replaced by a better man.

DEPUTY BHEEL AGENCY.

The districts under the charge of this Agency are—The Pergunnah of Maunpoor (British) the State of Burwancee, the Bhoomiats of Jamnia and four other small Bheel Chiefs; and the Dewas Pergunnah of Bagode.

60. *Maunpoor*.—The total revenue was Rupees 7,159. The marginal statement shows the gradual decrease during the last five years under this head. The cultivators are poor, and harassed with debts.

Year	Revenue
1870-71	9,701
1871-72	9,011
1872-73	8,556
1873-74	7,285
1874-75	7,159

The outturn of the year's crops is valued at Rupees 38,000. The population of the pergunnah is about 4,000, but only a small proportion of these can be classed as cultivators. Thirty fresh ploughs have settled in the pergunnah during the year, and 198 beegahs of new land have been brought under cultivation. Seven cutcha and three masonry wells have been dug,—the Deputy Bheel Agent considers that a loan in the shape of tucavee advances to the ryots would be advantageous. The difficulty we have to contend with in Maunpoor is the apathy of the people and their natural unwillingness to help themselves. Unless a new set of the cultivating class could be induced to settle, the prospect of reclaiming the pergunnah is small.

61. *Burwancee*.—The Dewan—Khan Bahadoor Nujuf Khan, upon whom the management of the State practically rests—has done well for Burwancee. This Dewan is a man of rare energy and honesty.

The revenue has increased from Rupees 85,205 to 87,693. The expenditure was Rupees 78,530. The cash balance, including one lakh in Government paper, must now be considerable.

Rupees 11,000 were expended on public works, among which a trestle bridge and ferry across the Nerbudda near the town of Burwancee have proved beneficial. The receipts of the bridge for six months exceeded Rupees 1,300.

The population of the State is shown as 33,020. The people are prosperous and contented. The livestock of the State is valued at Rupees 12,81,965, a substantial proof of thrift and care among the cultivators. During the year three new villages have been repopulated, and 1,725 beegahs of land brought under cultivation for the first time.

The Rana accompanied the Deputy Bheel Agent in a tour through the Satpoora Hills. This journey may prove of advantage to the Chief as well as to his people, among whom he has not heretofore travelled.

The schools in Burwance are well attended, and there are two excellent dispensaries, where 3,198 patients have been treated during the year.

The vaccinations numbered 264.

62 *Jamnia* —The management of this young Bheel Chief's State has been well conducted by the Kamdar. The revenue from all sources was Rupees 15,972, and the ordinary expenditure Rupees 9,033. Rupees 2,000 have been paid of the State debt, and Rupees 1,956 advanced to cultivators, thus raising the total expenditure to Rupees 12,989. The balance of the year was Rupees 2,983. The Chief has been very liberal in his expenditure, especially in the purchase of liquor on occasions of wedding feasts and other festivities, and determined instead to spend their money upon sweetmeats. These good resolutions await trial.

63 *Bombay and Agra Road* —The traffic continues to be very considerable. Five thousand six hundred and forty five opium chests passed on their way to Bombay, being 1,762 more than last year.

Opium is the only article on which road dues are allowed, the receipts for the past year were Rupees 20,713, and the expenditure (maintenance of road police) Rupees 2,460, leaving Rupees 18,253 to be distributed in 46 shares among the Chiefs through whose districts the road passes.

GOONA AGENCY

64 Captain Buller submits a brief report on affairs within his political charge.

He remarks that dacoity has diminished within the last ten years, and notwithstanding the inclinations of the people for predatory habits and facilities afforded by a wild hilly country where the territories of different States are interlaced, there is a marked decrease in serious crime.

The system of enforcing compensation to owners of stolen property from the Chief or Thakoor in whose territory the robbery occurred tends greatly to check the evils.

Rundheer Sing and his gang of dacoits gave ample employment to Captain Buller and the party of Central India Horse under him during the past year. The search for the gang in the Goona Agency, in the outlying districts of Isaghur and Ramod, was systematically kept up, and much valuable assistance was rendered by Captain Buller and his men.

The general health of the district was good.

The cold weather crops of gram and wheat were injured to an extent which the cultivators estimate at four annas in the rupee, and opium also suffered considerably from cold and strong winds in February.

65 *Sindia's Districts* —Govind Rao Chumryee, the Soobah of the Bujrunghur district, which comprises four pergunnahs, has managed

CHAPTER IV.

JUDICIAL

1. No Acts of the Supreme Legislature were extended to any part of the Central India Agency during the year 1874-75

2. SECTION I—Civil Justice

NUMBERS OF SUITS.		CLASS OF CASES			
Suits disposed of during 1874-75.	Value	Read up at close of 1873-74	Filed during 1874-75	Total.	Disposed of during 1874-75
		Rs	Rs	Rs	Rs
411	78	1 161	1 239	2 398	2 398
3 46	4 6 2	2 665	2 9 6	4 215	4 215
2 25	6 15 6	3 726	3 771	4 44	4 44
Total		411	78	2 16 591	2 16 591
Average cost of conduct of suits		4 6 2	7 8 8	1 40 63	1 40 63
Average duration of cases		3 46	7 8 8	2 16 591	2 16 591

The foregoing statement shows a decrease in the number of suits filed as compared with the number for 1873-74. The value of suits has fallen from Rupees 2,60,861-10-11 for 1873-74 to Rupees 2,15,591-15-10 for the year under review.

The decrease in the number of suits filed as compared with the year 1873-74 is nearly the same for the Courts of Political Officers, and Cantonment Courts standing at a little under 13 per cent in both cases. In the value of suits the decrease is confined to the Courts of Political Officers, the value amounting to Rupees 70,262-5-10 for 1874-75 against Rupees 1,18,209-12-10 for 1873-74. In the Cantonment Courts there appears a small increase in the value of suits, the amounts being Rupees 1,45,320-10, and Rupees 1,42,651-14-1, respectively, for years 1874-75 and 1873-74.

3 The average cost of a suit has been in the Courts of Political Officers Rupees 4-6-2, and in the Cantonment Courts Rupees 7-8-8, against Rupees 5-2-10 and Rupees 5-0-3, respectively, for the same Courts in 1873-74.

4. The reduction in the average cost in the Courts of Political Officers is due chiefly to a reduction in the average for Indore. The increase in cost apparent in the case of the Cantonment Courts shows itself most markedly in the Courts of the Civil Judge at Morar.

5. In the average duration of suits there is an increase, the numbers being for 1874-75, 3 46 and 1 05 in the Courts of Political Officers and Cantonment Courts, respectively, against 2 85 and 1 083 for 1873-74.

6. The pre-eminence of Alhori in number of suits instituted noticed in the previous annual report is still more marked this year, the number for that cantonment showing a slight increase, while the total return for Central India shows a decided decrease as noticed above in paragraph 2.

7. In the foregoing statement and review, the Civil Courts of Political Officers include all, such as Indore, Sehore, Western Malwa, Gooma, &c., where there is no Cantonment Magistrate. The working of the Courts has been satisfactory.

8. SECTION II.—*Criminal Justice.*

NATURE OF CRIMES.		ADJUDICATED IN THE COURTS OF		TOTAL.	
		Political Officers.	Cantonment Magistrates.		
		954	845		
Murder and attempted murder	...	21	...	21	18
Culpable homicide	...	14	4	18	63
Dacoity	...	63	...	63	110
Receiving stolen property	...	43	67	110	17
Robbery on highway or elsewhere	...	16	1	17	478
Theft of cattle and ordinary theft	...	263	216	478	1,092
Miscellaneous offences	...	534	558	1,092	
Total	...	954	845	1,799	

From the above statement a slight decrease in crime is apparent as compared with 1873-74. As regards the more heinous—crimes, murder and culpable homicide—the number for 1873-74 and 1874-75 are nearly the same, but there is a considerable decrease in the number of trials for dacoity during the past year; the numbers for the two years being 111 and 63, respectively.

The number of persons tried during the last year was 1,799 against 1,898 in 1873-74. In the Courts of Political Officers the numbers for the years 1873-74 and 1874-75 were 975 and 954, and in the Cantonment Courts 923 and 845 for the same years. The total of cases tried during the year was 1,095.

The number of convictions was 1,295 out of 1,799 persons tried, being nearly 72 per cent.

The number of cases pending at the close of the year was 28, and the number of persons awaiting trial was 75.

The sentences awarded were as follows:—

Death	...	...	...	4
Transportation	...	...	...	32
Whipping	...	...	...	62
The average duration of trials was in the Courts of Political Officers 12.76 days, and in the Cantonment Courts 8.11 days.				

9. In the Political Courts 1,092 persons attended as witnesses for 2,546 days, the average attendance of each being 2.33 days.

The number of witnesses who attended for one day only was 887. 10. In the Criminal Courts of the Cantonment Magistrates the number of witnesses who attended during the year was 1,217, of these 973 were detained for one day only.

A serious evil noticed in last year's report, viz., destitute Europeans in Central India, has not lessened. The hope of employment on the railway and the increased facilities of transport encourage these unfortunate vagrants to try their fortunes in Native States. When possible these men are sent to Bombay.

SECTION III.—Police.

11. The number and cost of the police maintained is given in the following statement.

NAME OF OFFICE	Men of all grades		Cost	Men of all grades		Cost	Men of all grades		Cost	Total or all Grades
	Mounted	Pool		Mounted	Pool		Mounted	Pool		
Paid by British Govt										
PAID BY LOCAL, MUNICIPAL, OR STATE FUNDS										
British or Local Police under Political Officers.		8	168	20,012	10	335	26,320	18	601	Rs. 46,332
Cantonment Police						298	24,393		298	24,393
Total		8	168	20,012	10	633	50,713	18	799	70,725

The number of Mounted Police kept up is 18, and of Foot Police 799. The cost has been to the British Government Rupees 20,012, and to the Local, Municipal, or State Funds Rupees 50,713, giving a total amount of Rupees 70,725.

The conduct of the Force has been good

13 The new Civil Jail at Morar has been completed, and the prisoners were moved into it on the 11th May 1874. The jail is well arranged, and the health and conduct of the prisoners has been good.

14 The Central Jail at Indore under the supervision of Dr Berumont is admirably managed. The system in force maintains discipline without harshness, every inmate is put to the work for which he seems by calling and physique suited, there is no mock sentiment, the prisoners understand that they are not in jail for amusement. The health and conduct of the body is good.

15 It has been hitherto impossible to obtain reliable statistics respecting jails in Native States, but a change has set in which is day by day gathering strength.

16 Sindia's jail at Gwalior some years ago was a place of which little was known, and a visit to it was not desired by the Durbar. Within the last few years the jail has been placed under the management of Major Filose, and great improvements have been effected.

17 The same may be said of the Indore Jail and in a more marked manner, four years ago it was a sickening sight to see men of education under suspicion and charges of misappropriation of State money manacled with weighty irons and linked for the night to murderers and dacoits. The visit of the British Resident was resented. Women were imprisoned under almost any pretext and released bereft of character.

The Maharaja under the advice of Sir Madava Rao has radically reformed these evils. The jail has been enlarged and ventilated.

The prisoners are fairly treated, and shortly we may hope to see the untried and those under trial entirely severed from the convicted.

Those untried are now comparatively few. There is no longer any desire to keep the jail a secret place. Visitors can examine it as easily as our own jails. Sir Madava Rao desirous to fix the reform in perpetuity invited the supervision of Dr Berumont, the Residency Surgeon, and the City Jail is now regularly visited by him.

The site of a new jail has been fixed, and the Maharaja has assigned a sufficient sum for its construction.

18 To the late Secunder Begum of Bhopal belongs the honor of introducing jail management in Central India, which did not shun inspection. She was willing that the Political Agent should visit her jail and speak frankly of the system.

Her successor, the Nawab Shah Jehan Begum, prides herself upon losing none of the forward ground taken by her distinguished mother, and the jail at Bhopal has still more method and less cruelty than is common in Native States.

19 The jail at Rewah was perhaps the darkest and wildest den of the present period. But from time to time the vilest miscreants were let free to satisfy some superstition or appease an angry deity. Many of them soon worked their way back through murders to await a fresh release. The Maharaja left these matters much in the hands of the high priests of the city.

The change of administration now inaugurated will makē these things of the past. It is gratifying to note that in the States which have been under our temporary management, if few of our reforms have stood, the jail system still remains conspicuous.

20. Duttia, Myhere, Chutterpoor are instances of this. In Malwa, Rutlam and Jowrah have markedly improved.

CHAPTER V

REVENUE

His Highness Maharaja Holkar has paid Rupees 2,38,152, being 18th and 19th instalments of the sum of Rupees 23,81,520 due for the capitalization of his contribution to the Malwa Bheel Corps. There remains only one instalment to complete the capitalization.

His Highness has also paid Rupees 11,00,000, the 16th instalment of one million on account of Holkar State Railway loan.

2 *Opium*—The statement in the margin shows the number of chests that passed the scales during the year ending 31st March 1875, and the amount of duty realized. The total number of chests weighed was 47,982, representing in duty paid to Government Rupees 2,87,89,200 or £2,878,920, being 12,982 chests or Rupees 77,89,200 more than the estimate for the year.

In addition to this Rupees 18,399 were realized by the stamp duty on hoondees.

The expense of establishment kept up by Government in Malwa during the year was Rupees 13,559, or £1,355 18.

Of the 47,982 chests which passed the scales, the weighments were made as follows—

At Indore	19 320 chests
Rutlam	2 573
Dhar	3 141
Oojein	17 200
, Oodeypoor	5 748
Total	47 982 chests

The account of the cess of one rupee per chest upon opium weighed at Indore and Oojein for the construction and repair of roads is as follows—

Collected at Indore from 1st April 1874 to 31st March 1875	Rs 19 320
Collected at Oojein from 1st April 1874 to 31st March 1875	17 200
Total	Rs 36 520

3 The following tables give the sources and amount of the ordinary imperial revenue, the contributions by Native States to Contingents, the tributes and fixed payments for istumrar land, and the details of the local funds.

The local fund accounts of the Mhow and Neemuch Cantonments are now submitted direct to the Comptroller-General.

I.—Ordinary Imperial Revenue.

				<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Land revenue, abkaree, &c.	...	...	...	6,431	14	9
Sale of stamps	...	...	...	29,827	14	0
Judicial fees and receipts	...	...	...	2,371	6	0

*Electric Telegraph and Postal collections,
including sale of stamps.*

				<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Electric Telegraph	...	...	...	47,314	10	8
Postal	...	...	...	1,30,742	14	8
				1,78,057	9	4
Miscellaneous	...	...	...	2,43,977	1	1
Grand Total	...			4,60,665	13	2

II.—Payments by Native States.

				<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Contribution to Contingents	...	...	...	2,94,645	4	6
Tributes assigned to British Government	...	...	...	3,30,409	6	9
Tributes paid through British Government	...	...	...	2,52,014	13	8
Fixed payments for istumrar land	...	...	...	0	0	0
Grand Total	...			8,77,069	8	11

NAME OF FUNDS	RECEIPTS			DISBURSEMENTS									Balance on 31st March 1875
	Balance on 1st April 1874	Total receipts during the year	Grand total rece pts	Collection and manage- ment of Superin- tendence	Public Works pro- per	Local improve- ment	Police and Judicial	Education	Hospital and Dispen- saries	Grants to shareers in Road dues	Miscellane- ous.	Total	
I Cantonment Local Funds	Rs a p 30 940 5 1*	Rs a p 1 01 042 8 4	Rs a p 2 2 882 13 5	Rs a p 12 454 13 10	Rs a p 10 116 1* 11	Rs a p 39 310 11 1	Rs a p 31 730 9 4	Rs a p 1 6* 4 9	Rs a p 5 173 0 11	Rs a p 60 883 10 4	Rs a p 1 91 0* 15 *	Rs a p 31 6* 9 11 3	
II Political Agen- cies and Nauch Poor Pergumnah Funds	Rs a p 21 624 2 3	Rs a p 69 041 11 2	Rs a p 91 468 13 5	Rs a p 18 423 9 5	Rs a p 3 677 15 4	Rs a p 3 108 4 1	Rs a p 7 617 4 5	Rs a p 1 037 5 10	Rs a p 1 645 14 3	Rs a p 23 530 10 9	Rs a p 79 308 0 1	Rs a p 18 10 13 4	
III Fund raised for sp. chul purpose	Rs a p 14 6 3 9 3†	Rs a p 40 941 10 *	Rs a p 51 943 3 6	Rs a p 17 933 0 0	Rs a p 2 579 0 0		Rs a p 1 308 0 0	Rs a p 4 2* 5 0 5	Rs a p 8 819 5 6	Rs a p 7 860 8 10	Rs a p 43 063 14 0	Rs a p 12 578 4 6	
IV Collection from local road dues Ac	Rs a p 18 114 14 4	Rs a p 31 140 11 6	Rs a p 50 2 5 9 10	Rs a p 2 695 0 0			Rs a p 3 960 0 0		Rs a p 191 2 5	Rs a p 21 0* 2 14 0	Rs a p 323 1 0	Rs a p 23 094 1 5	Rs a p 2* 161 8 6
Grand Total	Rs a p 80 037 14 11	Rs a p 3 36 312 9 2	Rs a p 42 550 8 1	Rs a p 80 61 7 3	Rs a p 36 372 12 3	Rs a p 42 419 15 2	Rs a p 41 675 13 9	Rs a p 6 806 11 0	Rs a p 16 6* 9 7 1	Rs a p 21 022 14 0	Rs a p 91 899 14 11	Rs a p 3 36 770 15 6	Rs a p 82 773 8 8

* Melbidoor Cantonment Fund has been included in a year hence the increase in the balance

† Indore Residency School has been included this year hence the increase in the balance

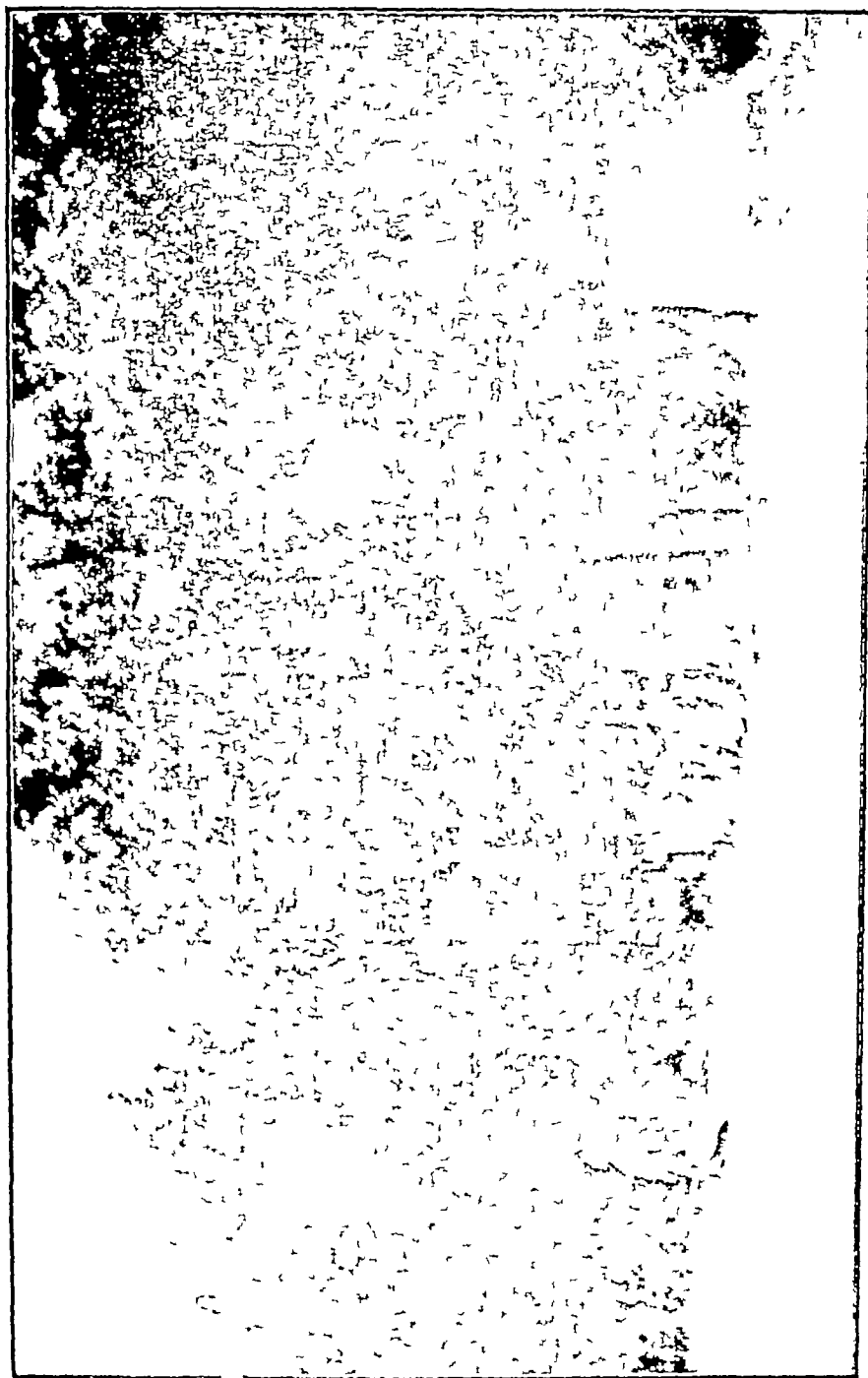
CHAPTER VI.

EDUCATION.

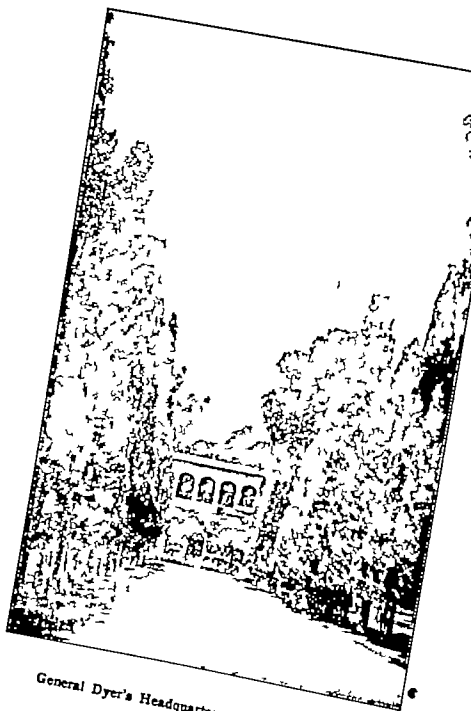
The following Tabular Statement exhibits the working of the schools in the Central India Agency. It is approximately correct. The returns for the schools in Cantonments and under the control of Political Officers are full and complete, but those of the schools in Native States do not give full statistics of the education supplied to their subjects:—

NAME OF SCHOOLS.	No. OF SCHOOLS.			Average daily attendance of pupils.	EXPENDITURE DURING 1874-75.				SOURCE AND AMOUNT OF INCOME DURING 1874-75.					TOTAL.
	Male.	Female.	Total.		Teachers' salary.	Contingent and other expenses.	Total.	Grants in-aid from British Government.	One per cent. cess and grants made from Local Funds and Native States.	Contributions and sub- scriptions.	Fees from pupils.			
Agency and Cantonment Schools	9	1	10	753	Rs. a. p. 22,564 13 1	Rs. a. p. 3,144 5 2	Rs. a. p. 25,709 2 3	Rs. a. p. 8,427 0 0	Rs. a. p. 8,264 1 8	Rs. a. p. 2,454 6 4	Rs. a. p. 3,303 3 0	Rs. a. p. 22,449 11 0		
Maunpoor and Native State Schools	118	5	123	3239 57	Rs. a. p. 43,757 4 1	Rs. a. p. 4,736 4 7	Rs. a. p. 48,523 8 8	Rs. a. p. 1,025 13 10	Rs. a. p. 20,193 15 11	Rs. a. p. 1,192 7 8	Rs. a. p. 0 0 0	Rs. a. p. 22,412 5 5		
Total	127	6	133	3992 57	Rs. a. p. 66,352 1 2	Rs. a. p. 7,880 9 9	Rs. a. p. 74,232 10 11	Rs. a. p. 9,452 13 10	Rs. a. p. 28,458 1 7	Rs. a. p. 3,646 14 0	Rs. a. p. 3,303 3 0	Rs. a. p. 44,861 0 5		

proper opportunity of preparing his defence, and shall be allowed free communication with his witnesses and with *any* friend or legal adviser whom he may wish to consult. Rule 81 goes further and provides that "at any general or district court martial, an accused person may have a person to assist him during the trial whether a legal adviser or any other person. Rule 87 further, provides that neither the prosecutor nor the accused has any right to object to any counsel if properly qualified", and according to this Rule, counsel shall be deemed properly qualified if he is a legal practitioner authorised to practise with right of audience in a court of Sessions in British India'. In the face of these Rules the illegality of the order of prohibition is obvious. The plea that the order was issued to prevent the ingress of persons who might have created an agitation is falsified by the statement of Major General Beynon before Lord Hunter's Committee and seems to be only a clumsy after thought. At a time when meetings were prohibited the newspapers were pre censored, the whole population was terror stricken when even more than two men could not walk abreast in the public streets it is inconceivable that any agitation against the Government could have been started in the province. The fact that some European barristers were also prohibited from entering the martial law areas gives the direct lie to these apprehensions. The real object of the ban on outside lawyers was to conceal the ugly practices of the martial law authorities from the prying eyes of outsiders, and to deprive the accused of the opportunity of putting up an efficient defence. This view is strengthened by the fact that similar restrictions were imposed as between the different martial law districts. A large number of the prominent lawyers of Lyallpur having been arrested the martial law administrator of that district had prohibited the admission into his district of lawyers belonging to any other district of the Punjab. Thus there was another sanctum within the sanctum and a Vakil of the Lahore High Court was actually arrested and convicted for appearing in a Lyallpur Court in complete ignorance of this order.



A Lesson in Salaan.ing (Amritsar)



General Dyer's Headquarters (Ram Bagh, Amritsar)

Never in the history of our connection with England, has the fact of our being a subject-race so offensively brought home to us, as in the terrible months of martial law. The German atrocities against Belgium were surpassed both in their ingenuity and ferocity by the cruel wrongs inflicted on the people of the Punjab by the administrators of martial law. At *Amritsar*, people were arrested and flogged for not properly *salaming* the Europeans, and were collected in batches - and taught the intricacies of the military salute, indiscriminate arrests, public whippings and the torture and bribery by the police went on unchecked from week to week, and no less than ninety-three lawyers were enrolled as special constables, in spite of the fact that ample police and military forces were available, and those pleaders and barristers were insulted, ill-treated and made to work like coolies, presumably to humiliate them and prevent their taking up martial law cases. At *Lahore*, Lieut.-Col Frank Johnson reigned supreme; and took full advantage of the training he had picked up during his administration of martial law in Bechuanaland. Public whippings were held for the edification and moral improvement of the people, the Badshahi Mosque was closed up, the motor-cars, bicycles, tongas, carriages and electric lights and fans belonging to Indians were commandeered in their thousands and given over to Europeans for use to teach the people a lesson; a marriage-party was treated as an unlawful assembly and flogged, more than two Indians were prohibited to walk abreast "on any constructed or clearly defined pavement or side-walk" as this was considered likely to ruffle the feelings of the European pedestrians and lead to a breach of the peace by them. It was made illegal for any Indian "to carry or be found in possession of an instrument known as a *lathi* (stick)"; the traders and shop-keepers were punished for having observed the *hartals* by being forced to sell their goods at prices fixed by the colonel; and thousands of students were harassed and punished for no known offence, as already described. The administration of martial law was most intensive at Lahore; and more than 60 martial law orders were promulgated which restrict-

ed the liberties of the people in every conceivable way. On the night when martial law was going to be withdrawn a Magistrate went to the houses of all persons where copies of these orders were exhibited and insisted on their being burnt in his presence without leaving any trace behind, as if the Government was ashamed of them. *Kasur* was in the hands of Captain Doveton who possessed the gift of imagination in a remarkable degree. He ordered the looting and burning of the property of persons who were absent when the arresting parties went to their houses. The whole male population of the town was made to attend at the Railway Station on more than one day for purposes of a so called identification parade. Certain railway clerks were tortured to give false evidence. Six school boys were publicly flogged admittedly for no fault of theirs and all persons convicted by the Captain were made to lie down on the ground in front of him and rub their foreheads at his feet. These and other orders which were similar to those issued at other places made the people Captain Doveton's willing slaves as he puts it in his report. Captain Doveton made full use of the proposition that Martial Law is the will of the military commander and in the plenitude of his power ordered people to mark time climb ladders dance with fools caps on rub their noses on the ground skip for varying periods of time without a break and so on. Respectable citizens were made to perform these antics by way of military punishments as even the summary procedure of martial law was irksome to this imaginative officer, and to quote Mr Marsden the Sub Divisional Officer at *Kasur* he did not like to go through the formalities of trial and "sentence." In addition to the fancy punishments mentioned above the captain ordered certain *Sadhus* to be white washed. He also by way of punishment made a person write a poem in praise of the great qualities of head and heart possessed by the Captain. The administration of martial law was carried on in the most brutal and inhuman form in the *Gujranwala district* which was divided up between Lieut Col O'Brien and Mr Bosworth Smith, than whom no more cruel officers could have been found in the whole of the Punjab. At *Gujranwala* a large number of persons were made to clean the drains in the *bazaar*, although

the municipal sweepers had already cleaned them. At Wazirabad the *salāming* order took a more ferocious form than elsewhere; and the persons who were considered to have violated this order were tied with their turbans and dragged to the military camp, where they were flogged or thrashed. One man was made to kiss the shoes of an officer, because his *salām* had not been noticed. Butter was regularly collected for the troops without payment; and the curfew order, the no-travelling order, the flag saluting order and many other orders were in vogue at Wazirabad as at other places. The property of S. Jamait Singh, a wealthy citizen of Wazirabad was confiscated, and his family, including women and children, was turned out of his house without even being allowed to put on proper clothes because he was not present at Wazirabad when the police wanted him. On April 18th, a detachment of British soldiers surrounded the village of Nizamabad and looted the shops. For about a fortnight, the whole male population of the village had to attend the police station and remain there from seven in the morning till eight in the evening. A large number of persons were arrested and, those against whom no evidence could be got up were released by Lieut.-Col. O'Brien after being made to rub their noses on the ground before him. Under orders of Lieut.-Col. O'Brien the people of Akalgarh were made to repair the road leading to the Dak Bungalow, so that his motor car might run smoothly over it. An exhibition of machine-gun fire was also held at the people's expense to terrorise them and to facilitate the fabrication of false evidence. At Ramnagar also, Lieut.-Col. O'Brien made a large number of arrested persons rub their noses in the dust, before they were released. At Sangla, a demonstration with a machine-gun and Lewis gun firing was held, and the whole population was turned out of the village to witness it, for some days all inhabitants had to attend roll calls at the police station, provisions were taken away by soldiers without payment; and respectable men were forced to pull *pankhas* for the officers. The relations of the suspected persons, who were absent from the village, were arrested and detained as hostages. At

Chuharkana, the soldiers looted the village, the provisions were commandeered without payment, the crops of several persons were confiscated and for several days no one was allowed to reap the harvests which were ripe for the sickle. At Mahnianwala, soldiers promiscuously shot down the people on the 19th April, and afterwards there were wholesale arrests. Mr Bosworth Smith beat the women of the whole village out of their houses, paraded them all in front of him, unveiled their faces with his stick, and used the most unmentionable language calling them contemptible flies (*Gandi Makkhi*), bitches, she asses swine and worse things, and addressed them in the following terms — "You were in the same beds with your husbands, why did you not prevent them from going out to do mischief?" Mr Bosworth Smith himself beat several persons with sticks in order to make them give false evidence. At Sheikhupura almost all the pleaders were arrested, and released without trial after about 6 weeks' detention. These persons were paraded in hand cuffs and chains throughout the town both after the arrest and before their release. An exhibition of machine gun bombardment was also held here. The whole male population above the age of 10 years was made to sweep a large area of land simply with a view to humiliate them. Provisions were commandeered without payment. Mr Bosworth Smith collected all the people and made them stand in the sun. He then delivered to them a lecture on the Indian pleaders who, he said, were cheats and should be treated by the agriculturists as their dependents and menials (*kamins*). After these remarks he abused the whole audience by calling them Swine *Gandi makkhi* (contemptible flies), *kala log* (niggers), *Sab ek rang ka* (all of one colour) and so on and took them to task for having rebelled against the Government by closing their shops. S. Gauhar Singh a retired Inspector of Police, who had been arrested as a hostage for his sons and whose property had been confiscated on that account was also paraded bare headed, bare footed and handcuffed before the audience. Except the above characteristics the administration of martial law was conducted on the same lines in every district. The

curfew order, the *salaaming* order, the order regulating prices of fruits, vegetables, milk and other provisions, the order prohibiting more than a certain number of persons to assemble, the order prohibiting travelling except by permission, the roll-calls of students, the order directing the pleaders and other "agitators" to guard martial law notices, stuck up at their houses, on pain of severe punishment in case any such notice be defaced or damaged, the confiscation or destruction of the property of persons who were for any reason absent from their village or town when the police wanted them and the order directing the arrest and detention of the relations of such accused persons as hostages—these and similar other orders were the same all over the martial law areas. Racial discrimination was the keynote of all these orders. The orders relating to *salaaming*, motor-cars, bicycles, possession of sticks, curfew, unlawful assemblies, walking on the public streets, travelling and so on, were all applicable to Indians as such, the Europeans being expressly or impliedly excluded from their operation. As would appear from the facts mentioned above, the atrocities perpetrated by the civil and military officers under the cloak of martial law were not in the nature of casual or inevitable excesses committed in the process of restoring order; but they were committed in cold blood, and flowed from the deliberate intention to strike terror in the minds of the people, to teach them a terrible lesson and to kill out political life in the Punjab by terrorising and humiliating the whole population. The actual operation and working of martial law was based on the threefold object of vengeance, striking a widespread terror and punishing the agitators.

CONCLUSION

If the recent disorders unmistakeably prove any thing it was the utter failure of repression. Sir Michael O'Dwyer's theory of Government miserably failed in the Punjab, and on his own showing led an unarmed and admittedly loyal population to rise in open rebellion against his authority. The regime of blood and iron which was inaugurated by martial law further proved that a policy of repression weakens the prestige of Government and makes martyrs of the persons who are unjustly made to suffer. Every person of whatever position in life who was imprisoned under martial law has been feted and hailed as a hero and patriot on his release which has naturally led him to believe that he has done something to merit the acclamations of the people. It is indeed a sad state of things that the measure of a man's sincerity, patriotism and ability is the extent to which he is abused by the Government. Such a state of affairs is injurious both to the Government and the people and the Government should realise that repression carried beyond a certain point becomes its own antithesis just as at a certain stage pain becomes its own anodyne. Every wise Government should see that that limit is not crossed.

By a century and a half of just and beneficent rule, the love and gratitude for the British nation has so deeply been rooted in the Indian hearts that it is impossible to seduce the Indians from their loyalty to the British throne by the brief reign of terror, which was carried on in the Punjab under martial law. But every loyal citizen is horrified at the atrocities perpetrated by some of the officers of the Crown under the cloak of martial law and is distressed to see that acts were done in the name of peace and order of which every civilised Government should be ashamed and the vehemence with which these acts have been criticised is the measure of the love and esteem in which the British Government is held in India. Had such acts been everyday occurrences had the whole purpose and the policy of British rule in India not been sound and honourable, the horrors

of martial law would not have caused so much pain and indignation throughout the country, nor would they have produced so insistent a demand for reparation.

The honour and loyalty of the Punjab have been mercilessly traduced, her intelligentsia have been persecuted, harassed and dishonoured, her manhood has been disgraced, her people have been subjected to various forms of humiliation and suffering and hundreds of her innocent citizens have been massacred. She wants justice and reparation. The bitter memories of the last year can be obliterated, only if a full measure of justice is done to the people, and those responsible for bringing the Government into disrepute by their vindictive and cruel methods are brought to trial in an impartial tribunal. All reforms are futile, while fundamental human rights are not guaranteed to the Indians. No constitutional reforms would avail, if it remains possible for the officials to repeat the dark deeds of the last year. We want an assurance, both for our own sake and for the sake of England, that such cruel and inhuman acts will never again tarnish the fair name of Great Britain in this country. It is not a question of vengeance or retribution, it is a question of our future security and England's honour and reputation. The long history of British rule in the various parts of the Empire does not reveal a single instance in which the British nation has deliberately pursued a policy of tyranny and injustice, though there have been temporary lapses from the high ideals of Imperial justice, which British statesmen have always followed. It is, therefore, as much necessary for India as for England to demand a just and noble standard of conduct on the part of British officers all over the world, in order that the honour of England may not be sullied and the great and well-deserved reputation for upholding the principles of justice, liberty and Imperial rectitude, which she has acquired among the nations of the world, may not be irretrievably lost.

The mistakes were both on the side of the people and the Government, and everything should be done to soften the bitter memories of the last year. We are told that a new era is about to open in the history of our con-

nection with England. It is but proper that the spacious days that are promised to us, should begin with a clean slate and that all rankling sense of injustice over the past acts of the Government or its officials should disappear, without leaving the slightest trail behind. Let us enter upon the era of peaceful reconstruction with mutual confidence and goodwill, and let not the dawn of the new era be darkened with the clouds of suspicion or distrust.



APPENDIX I.

Martial Law Ordinances, and other Notifications, etc.

A.—REGULATION X OF 1804

A REGULATION for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the Sentence of Court Martial PASSED by the Governor General in Council on the 14th December, 1804.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government, and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor-General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified the following Regulation has been enacted by the Governor-General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation

2 The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature,

within any village, district city or other place within any part of the British territories subject to the government of the Presidency of Fort William and to establish martial law therein, for any person of the said British Government in India shall be engaged in war with an enemy of the said Government, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid; and also to direct the immediate trial, by courts martial of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents within its territories and under its protection, who shall be taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the state, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid and consequently owing allegiance to the said Government who, in violation of the obligation of such allegiance, shall be guilty of any of the crimes specified in the preceding Section and who shall be convicted thereof by the sentence of a court martial during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of martial law shall be liable to the immediate punishment of death, and shall suffer the same accordingly by being hung by the neck till he is dead. All persons who shall, in such cases, be adjudged by a court martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

4. The Governor-General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by courts martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary

B.—ORDINANCES.

(1)—The Martial Law Ordinance 1919

Simla, 11th April 1919

An Ordinance to provide for the trial of persons charged with offences under the Bengal State Offences Regulation, 1804

WHEREAS the Governor General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the Province of the Punjab

And WHEREAS the Governor General in Council has in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspended in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within the districts of Lahore and Amritsar in the aforesaid Province and has established martial law in the said districts and has directed the immediate trial by courts martial of all persons charged with such offences

And WHEREAS an emergency has arisen which makes it expedient to provide that such trials shall be held in the manner and by the tribunals hereinafter provided

Now, THEREFORE, the Governor General in exercise of the power conferred by section 72 of the Government of India Act, 1915, is pleased to make and promulgate the following Ordinance —

ORDINANCE No. 1 OF 1919

Short title and commencement
1 (1) This Ordinance may be called the Martial Law Ordinance, 1919

(2) It shall come into operation at midnight between the 15th and the 16th April 1919

2 (1) Every trial held under the Bengal State Offences Regulation, 1804, (hereinafter called the said Regulation) shall, instead of being held by a court martial, be held by a commission consisting of three persons appointed in this behalf by the Local Government

Trials under Regulation
of 1804 to be held by
commissions

(2) The Local Government may appoint as many commissions for this purpose as it may deem expedient.

(3) At least two members of every such commission shall be persons who have served as Sessions Judges or Additional Sessions Judges for a period of not less than three years, or persons qualified under section 101 of the Government of India Act, 1915, for appointment as Judges of a High Court. The Local Government shall nominate one of the members of the commission to be President thereof.

3. A commission shall be convened by the Local Government or by such officer, as the Local Government may authorise in this behalf

Convening authority

4 A commission shall have all the powers of a general court martial under the Indian Army Act, 1911 and shall subject to the provisions of this Ordinance in all matters follow so far as may be the procedure regulating trials by such courts martial prescribed by or under the said Act ;

Provided that where in the opinion of the convening authority a summary trial is necessary in the interests of the public safety such authority may direct that the commission shall follow the procedure prescribed for a summary general court martial by or under the said Act and the commission shall so far as may be and subject to the provisions of this Ordinance follow such procedure accordingly ;

Provided further that sections 78 80 and 82 of the said Act shall not apply to any trial under this Ordinance.

5 The finding and sentence of a commission shall not be subject to confirmation by any authority

Confirmation of finding and sentence unnecessary

6. Nothing in this Ordinance shall affect any trial held or begun to be held by court martial under the said Regulation prior to the commencement of this Ordinance.

Saving of proceedings of courts martial already begun.

7 Save as provided by section 6, the provisions of this Ordinance shall apply to all persons referred to in the said Regulation who are charged with any of the offences therein described committed on or after the 13th April, 1919.

Retrospective effect.

CHELMSFORD

Lieutentant and Governor General.

(2)—The Martial Law (Extension) Ordinance, 1919

S. n. l. a., the 16th April 1919.

An Ordinance to extend the operation of the Martial Law Ordinance 1919.

WHEREAS the Governor-General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the Punjab ;

And WHEREAS the Governor-General in Council has in exercise of the powers conferred by section 3 of the Bengal State Offences Regulation 1804 suspended, in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged the functions of the ordinary Courts of Judicature within the district of Gujranwala in the aforesaid province, and has established martial law in the said district and has directed the immediate trial by courts-martial of all such persons charged with such offences ;

AND WHEREAS an emergency has arisen which makes it expedient to provide that such trials shall be held in the manner and by the tribunals provided in the Martial Law Ordinance 1919, and also to provide for the same matter in any other area in which by order of the Governor-General in Council the provisions of the aforesaid Regulation may be brought into operation ;

Now, THEREFORE, the Governor-General in exercise of the power conferred by section 72 of the Government of India Act, 1915 is pleased to make and promulgate the following Ordinance —

ORDINANCE No. II OF 1919

Short title

1 This Ordinance may be called the Martial Law (Extension) Ordinance, 1919.

2 With effect from midnight between the 16th and 17th April, 1919, the provisions of section 2 to 6 of the Martial Law Ordinance, 1919, shall apply to the trial of all persons in the district of Gujranwala in the province of the Punjab of the classes referred to in the Bengal State Offences Regulation, 1804, who may be charged with any of the offences therein described, committed on or after the 15th April 1919

* Provisions of the Martial Law Ordinance, 1919, to apply in the district of Gujranwala.

3 Where, after the commencement of this Ordinance, the Governor General in Council, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspends in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within any area and establishes martial law therein, and directs the immediate trial by courts martial of all such persons charged with such offences, the Governor General in Council may by order in writing declare that the provisions of section 2 to 5 of the Martial Law Ordinance, 1919, shall apply to such trials in the said area.

Power to apply the provisions of the Martial Law Ordinance, 1919, in any area in which Regulation of 1804 is in operation

CHELMSFORD,

Viceroy and Governor-General

(3)—The Martial Law (Sentences) Ordinance, 1919.

Simla, the 18th April 1919.

An Ordinance to provide that persons convicted of any of the crimes specified in the Bengal State Offences Regulation, 1804, shall be punishable with penalties other than those provided in the said Regulation :—

WHEREAS an emergency has arisen which renders it necessary to provide that persons convicted of any of the crimes specified in the Bengal State Offences Regulation, 1804, shall be punishable with penalties other than those provided in the said Regulation

Now, therefore, in exercise of the power conferred by section 72 of the Government of India Act, 1915, the Governor-General is pleased to make and promulgate the following Ordinance —

ORDINANCE No. III OF 1919

Short title.

1 This Ordinance may be called the Martial Law (Sentences) Ordinance, 1919

Provisions for punishments in case of convictions under Regulation V of 1804.

2 Notwithstanding anything contained in section 3 of the Bengal State Offences Regulation 1804

(a) Any court martial or any commission appointed and convened under the Martial Law Ordinance 1919, may when convicting any person of any of the crimes specified in the said regulation sentence such person to transportation for life or for any period not less than ten years or to rigorous imprisonment for a term which shall not be less than seven years and shall not exceed fourteen years;

(b) No person so convicted shall be liable to forfeiture of property as provided in the said Regulation unless such court or commission so directs

CHELMSFORD

For and Governor General

(4)—The Martial Law (Further Extension) Ordinance 1919

Simla, the 21st April 1919

An Ordinance further to extend the application of the Martial Law Ordinance 1919

WHEREAS an emergency has arisen which renders it necessary to provide that commissions appointed under the Martial Law Ordinance, 1919 shall have power to try persons and offences other than those specified in the said Ordinance;

Now therefore, in exercise of the power conferred by section 72 of the Government of India Act, 1915, the Governor General is pleased to make and promulgate the following Ordinance:—

ORDINANCE No IV OF 1919.

Short title.

1 This Ordinance may be called the Martial Law (Further Extension) Ordinance 1919

Commissions under Martial Law Ordinance, 1919 to try such cases as the Local Government may direct.

2 Notwithstanding anything contained in the Martial Law Ordinance 1919, the Local Government may by general or special order direct that any commission appointed under the said Ordinance shall try any person charged with any offence committed on or after the 30th March 1919 and thereupon the provisions of the said Ordinance shall apply to such trials accordingly and a commission may pass in respect of any such offence any sentence authorised by law

CHELMSFORD

For and Governor General

(5)—The Martial Law (Trials Continuance Ordinance, 1919)

Simla, the 27th May 1919

An Ordinance to provide for the continuance of trials held by commissions and summary courts under Martial Law

WHEREAS in exercise of the power conferred by section 2 of the Bengal State Offences Regulation, 1804, the Governor-General in Council has been pleased to issue orders suspending in certain districts of the Punjab the functions of the ordinary criminal Courts of Judicature in so far as the trial of persons of the classes referred to in the said Regulation charged with the offences therein described is concerned, and to establish martial law in the said districts,

AND WHEREAS the Governor General has been pleased to make provision by the Martial Law Ordinance, 1919, and by the Martial Law (Extension) Ordinance, 1919, for the holding of such trials by commissions,

AND WHEREAS the Governor-General in Council has further been pleased in exercise of the powers conferred by the aforesaid Regulation to suspend the functions of the ordinary criminal Courts of Judicature in the said districts in so far as trials held by commissions in accordance with the provisions of the Martial Law (Further Extension) Ordinance, 1919, are concerned,

AND WHEREAS an emergency has arisen which renders it necessary to provide for the continuance and completion of all such trials pending before the said commissions at the time of the cancellation of the said orders and for other matters in connection therewith,

NOW, therefore, the Governor General in exercise of the power conferred by section 72 of the Government of India Act, 1915, is pleased to make and promulgate the following Ordinance —

ORDINANCE No VI OF 1919

1 This Ordinance may be called the Martial Law (Trials Continuance) Ordinance, 1919.

Short title

2 When an order under section 2 of the Bengal State Offences Regulation, 1804, suspending the functions of the ordinary criminal courts in any district has been cancelled and martial law has ceased to operate, every trial which may at the time of such cancellation be pending before any commission appointed as a result of such order under the Martial Law Ordinance, 1919, shall be continued by such a commission, and any person accused in any such trial may be convicted and sentenced and any such sentence shall be carried into execution, as if such order had not been cancelled.

Continuance of trials after the cancellation of orders establishing martial law

Explanation — A trial for the purposes of which an order has been made convening a commission under either the Martial Law Ordinance, 1919, or the Martial Law (Further Extension) Ordinance, 1919, shall be deemed to be a trial pending before such commission within the meaning of this section.

3 Notwithstanding that the functions of the ordinary criminal courts have been

Provision for trials pending before summary courts on cessation of martial law suspended in any district and that a trial has commenced before a summary court other than an ordinary criminal court, such trial shall, when the summary court ceases by reason of the cessation of martial law to exercise jurisdiction therein, be continued before any competent criminal court which would have had jurisdiction therein save for the existence of martial law and such court may act on the evidence recorded by the summary court or partly recorded by such court and partly recorded by itself, or it may resummon the witnesses and recommence the trial :

Provided that the accused may at the commencement of the proceedings before the second court demand that the witnesses or any of them be resummoned and reheard :

Provided further that nothing in this section shall be deemed to apply to the trial of an offence which is not punishable under any law for the time being in force

CHILMSFORD

Viceroy and Governor-General.

C.—ORDERS DECLARING MARTIAL LAW.

(1)—Lahore and Amritsar.

Whereas the Governor General in Council is satisfied that a state of open rebellion against the authority of the Government exists in the districts of Lahore and Amritsar in the Province of the Punjab,

Now, therefore, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, the Governor General in Council is hereby pleased to suspend the functions of the ordinary criminal courts within those districts in so far as the trials of persons of the classes referred to in the said Regulation, taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within the said districts, is concerned, and to establish Martial Law within the said districts

The Governor General in Council is also pleased to direct the immediate trial by courts-martial of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government, within any part of the said districts

J H DUBOULAY,

Secretary to the Government of India,

Dated 13th April 1919

Home Department

(2)—Gujranwala

Whereas the Governor-General in Council is satisfied that a state of open rebellion against the authority of the Government exists in the district of Gujranwala in the Province of the Punjab,

Now, therefore, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, the Governor General in Council is hereby pleased to suspend the functions of the ordinary criminal courts within that district in so far as the trial of persons of the classes referred to in the said Regulation, taken in arms in open hostility to the British Government, or in act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within the said district, is concerned, and to establish Martial Law within the said district

The Governor General in Council is also pleased to direct the immediate trial by court martial of all persons owing allegiance to the British Government either in consequence of their having been born or of their being residents, within its territories and under its protection who shall be taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said district

J H DuBOULAY

Simla, the 15th April 1919

*Secretary to Government of India,
Home Department*

(3)—Gujrat.

Whereas the Governor General in Council has issued an order under section 2 of the Bengal State Offences Regulation, 1804 suspending the functions of the ordinary criminal courts within the district of Gujrat in the Province of the Punjab in so far as the trial of persons of the classes referred to in the said Regulation, taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State or in the act of openly aiding and abetting the enemies of the British Government within the said district, is concerned and to establish Martial Law within the said district; and has also been pleased to direct the immediate trial of all persons owing allegiance to the British Government, either in consequence of their having been born or of their being residents, within its territories and under its protection who shall be taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State or in the act of openly aiding and abetting the enemies of the British Government within any part of the said district

The Governor-General in Council is hereby pleased to declare the provisions of sections 2 to 5 of the Martial Law Ordinance 1919 shall apply to such trials in the said area.

J H DuBOULAY

Simla the 19th April 1919

Secretary to the Government of India.

(4)—Martial Law (Further Extension) Ordinance Applied.—

Whereas the Governor General in Council is satisfied that a state of open rebellion exists in the districts of Lahore, Amritsar Gujranwala and Gujrat in the Province of the Punjab

Now therefore in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation 1804, and in extension of the orders suspending in the said districts the function of the ordinary criminal courts in so far as the trial of persons of the classes referred to in the said Regulation charged with the offences therein

described is concerned, the Governor General in Council is hereby pleased further to suspend the functions of the ordinary criminal courts in these districts in so far as trials held before commissions in accordance with the provisions of the Martial Law (Further Extension) Ordinance, 1919, are concerned

Simla, the 22nd April 1919

J II DuBOULAY,
Secretary to the Government of India

(5)—Lyallpur

Whereas the Governor-General in Council is satisfied that a state of open rebellion exists in the district of Lyallpur in the Province of the Punjab,

Now, therefore, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, the Governor General in Council is hereby pleased to suspend the functions of the ordinary criminal courts of judicature in the said district—

- (a) in so far as the trial of persons of the classes referred to in the said Regulation, taken in arms in open hostility to the British Government, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said district is concerned, and
- (b) in so far as trials held before commissions in accordance with the provisions of the Martial Law (Further Extension) Ordinance, 1919, are concerned.

The Governor General in Council is further pleased to establish Martial Law in the said district, and also to direct the immediate trial by courts-martial of all persons owing allegiance to the British Government either in consequence of their having been born or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said district.

Dated Simla, 22nd April 1919

J II DuBOULAY,
Secretary to the Government of India.

(6)—Martial Law Ordinance Applied

Whereas the Governor General in Council has in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspended in respect of offences described in the said Regulation with which any person of the classes herein referred to may be charged the functions of the ordinary criminal courts of judicature within the district of Lyallpur in the province of the Punjab, and, has established Martial Law in the said district and has directed the immediate trial by courts-martial of all such persons charged with such offences

Now that the Governor-General in Council in exercise of the powers conferred by section 3 of the Martial Law (Extension) Ordinance 1919 is pleased to declare that the provisions of sections 2 to 5 of the Martial Law Ordinance, 1919, shall apply to a trial in the said district

J. H. DUBOULAY

Secretary to the Government of India

Dated Simla 22nd April 1919

D — MARTIAL LAW REGULATIONS

Proclamation by G O C

WHEREAS Martial Law has been proclaimed and is in force in the districts of Lahore, Amritsar and Gujranwala, it is hereby notified that until further intimation, the following Regulations will be enforced within the limits of the 16th Indian Division in all places to which Martial Law has been or may be extended —

No 1 — Law and Tribunals

Martial Law has been declared subject to—

- (a) the maintenance of ordinary courts for ordinary offences and
- (b) the establishment under the Martial Law Ordinance, 1919, of Special Tribunals for offences specified in section 2 of the Bengal State Offences Regulation, 1804

The result of the establishment of Martial Law is that, subject to the said Ordinance, plenary power is vested in the General Officer Commanding the Division of prescribing offences, penalties, courts and procedure in regard to all matters connected with or arising out of the present disturbances and of taking all measures and issuing all orders that he may deem necessary for the suppression of these disturbances. In the exercise of these powers the General Officer Commanding the Division is pleased to declare that a breach of any of the Regulations Nos, 2—15 below, shall be deemed to be an offence

No 2 — Offences

— No person shall—

- | | |
|---------------------------|--|
| Rebellion | (a) be actively in arms against His Majesty, or |
| Aiding rebels | (b) directly incite others to take up arms against His Majesty, or |
| | (c) actively aid or assist the rebels, or |
| Endangering public safety | (d) commit any overt act by which the safety of His Majesty's Forces or subjects is endangered |

No 3

No person shall assist or harbour rebels by giving them information, or by supplying them with shelter, food, drink, money, clothes, arms, ammunition, stores, forage, or means of conveyance, or by assisting them in any way to evade apprehension

No. 16 — Penalties.

Any person who contravenes any of the foregoing Regulations 2—15 (inclusive) shall be liable to trial by an officer authorised to dispose of an offence summarily under Martial Law. Such an officer may sentence an offender to imprisonment, rigorous or simple which may extend to two years, or to fine not exceeding Rs. 1000 or to both and to six months imprisonment in default of payment of fine, and may also inflict whipping in addition to, or in lieu of any other punishment which he is empowered to inflict.

No. 17.—Arrest and Trials

(a) For every offence against these Regulations the offender may be arrested with or without warrant from any officer authorised to dispose of offences. For minor offences against these Regulations the offender will not necessarily be arrested but may be summoned to appear before such officer.

(b) Whenever a person is summoned to appear or is arrested under Martial Law the charge against him shall without unnecessary delay be investigated by an officer authorised to dispose of an offence summarily under Martial Law or by some officer deputed by him and not under the rank of Captain or at his request by a Civil Magistrate or by the police.

(c) The investigating officer will dismiss a charge brought before him if in his opinion the evidence does not show that some offence under Martial Law has been committed or if in his discretion he thinks the charge ought not to be proceeded with.

(d) At the conclusion of the hearing if the investigating officer is of opinion that the charge ought to be proceeded with, he shall without unnecessary delay either—

(i) dispose of the case summarily or

(ii) in cases where he considers that the offence calls for a more severe punishment than he is empowered to inflict, refer the case to the Legal Remembrancer to the Punjab Government who, after considering the evidence, will decide whether to convene a Commission under the Martial Law Ordinance, 1919 for the disposal of the case or whether it should be remanded to the officer referring it for disposal or to any other officer exercising powers under these Regulations, or

(iii) remand the accused in custody while further enquiries are being made.

In case (iv) if within reasonable time sufficient evidence is not forthcoming the accused person shall be discharged.

No. 18.—Officers authorised to dispose of offences summarily under Martial Law

The districts in which Martial Law has been declared shall be divided up into areas and for each such area an officer or officers will be authorised to dispose of offences summarily under Martial Law. Such officers shall be known as Area Officers.

In addition to the Area Officer every officer commanding a station or regiment, every Field Officer and every officer nominated by a General Officer Commanding a Brigade, by the Officer commanding Lahore Civil Area or by the Local Government, is hereby authorised to dispose of offences summarily under Martial Law

W. G. L. BEYNON, K.C.I.E., C.B., D.S.O.,

MAJOR GENERAL,

Commanding the 16th Indian Division

The 19th April 1919.

J. P. THOMPSON,

Chief Secretary to Government Punjab

AMENDMENT.

The following amendment to the above Proclamation was published under date April 21st —

Regulation No. 8 in Martial Law Proclamation of the 19th of April is hereby amended as follows:—

- 8 Where any orders have been issued regarding the control of travelling and movements, no person shall enter or leave the area to which Martial Law has been extended or move to and fro within it, in contravention of such orders.

Note—A similar Proclamation and a similar amendment were issued by Major General Sir C. M. Dobell K.C.B., C.M.G., D.S.O. Commanding the 2nd (Rawalpindi) Division, bearing dates April 20th and April 21st respectively with reference to the District of Gujrat and places within the limits of that Division to which Martial Law had been or might be extended

E.—MARTIAL LAW COURTS.

(1)—Commissions.

Under section 2 of the Martial Law (Further Extension) Ordinance 1919 the Lieutenant Governor hereby directs that all persons charged with offences connected with the recent disturbances and committed on or after the 30th March 1919 and before the dates of the Martial Law Proclamation is used by the General Officer Commanding 16th Indian Division and the General Officer Commanding 2nd (Rawalpindi) Division, respectively in the Districts of Lahore Amritsar Gujranwala or Gujrat, shall be tried by one or other of the Commissions appointed in accordance with the Martial Law Ordinance 1919, under Notification No 10537 dated April 18th, 1919, or by any such Commission which may hereafter be appointed.—*Punjab Gazette Notification No 11091 dated 23 4 19*

Under section 2 (2) of the Martial Law Ordinance, 1919, the Lieutenant Governor is pleased to appoint the following Commissions for the purpose of holding trials under section 2 (1) of the said Ordinance:—(1) The Hon Mr Justice Leslie-Jones; Mr M H Harrison I. C. S. District and Sessions Judge; S Din Muhammad Extra Assistant Commissioner (2), Lieutenant-Colonel A. A. Irvine C.I.F., District and Sessions Judge; Mr F W Kennaway District and Sessions Judge; Mr L C. Lall. Under section 2 (3) of the Martial Law Ordinance, 1919, the Lieutenant-Governor is pleased to appoint the Hon. Mr Justice Leslie-Jones and Lieutenant Colonel Irvine to be Presidents of the above-mentioned Commissions respectively.—*Punjab Gazette Notification No. 10537 dated 18 4 19.*

Under section 2 (2) of the Martial Law Ordinance, 1919 the Lieutenant-Governor is pleased to appoint the following Commission for the purposes of holding trials under section 2 (1) of the said Ordinance:—Mr N H Prenter I.C.S. District and Sessions Judge; Mr S.S. Harris, formerly District and Sessions Judge, and Major P W Elliot, 20th D C O Infantry Under section 2 (3) of the Martial Law Ordinance 1919, the Lieutenant-Governor is pleased to appoint Mr N H Prenter to be President of the above-mentioned Commission.—*Punjab Gazette Notification No 12341½ dated 5 5 19.*

Under section 2 (2) of the Martial Law Ordinance 1919, the Lieutenant Governor is pleased to appoint the following Commission for the purpose of holding trials under section 2 (1) of the said Ordinance:—The Hon. Mr Justice Broadway; A. H. Brauber Esq. I. C. S. District and Sessions Judge; and Khan Bahadur Shalkh Rahim Bakhsh. Under section 2 (3) of the Martial Law Ordinance, 1919, the Lieutenant-Governor is pleased to appoint the Hon Mr Justice Broadway to be President of the above-mentioned Commission.—*Punjab Gazette, May 26th.*

(2)—Area Officers.

In continuation of and in modification of No 11091, dated the 23rd April, 1919 the Lieutenant Governor hereby directs that nothing in the said notification shall be deemed to prevent the trial of any persons charged with an offence (1) other than one which is shown in column 8 Schedule II, Code of Criminal Procedure, 1898 as triable exclusively by the Court of Sessions, (2) which is connected with the recent disturbances; and (3) was committed on or after the 30th March 1919 and before the dates of the Martial Law Proclamations issued by the General Officer Commanding 16th (Indian) Division, on the 19th April 1919, and the General Officer Commanding 2nd (Rawalpindi) Division, respectively, in the districts of Lahore, Amritsar, Gujranwala or Gujrat, or before the 22nd April in the District of Lyallpur, by a summary Court appointed under order dated 5th May 1919, issued by the General Officer Commanding, the 2nd (Rawalpindi) Division — *Punjab Government Notification No. 12612 (Home, Judicial) dated May 8, 1919.*

(Punjab Government Notification No. 12341A, Military, dated the 5th May, 1919.)

The following order of the General Officer Commanding, 16th Indian Division, is published for information.

1. I hereby appoint the officers specified below to be summary courts for the trial of minor offences connected with or arising out of the recent disturbances and committed on or after the 30th of March and before the date of my proclamation of the 19th April or, in the case of the Lyallpur district, before the 22nd April. The officers hereby appointed shall have jurisdiction within the areas in which Martial Law has been proclaimed within the limits of the 16th Indian Division in respect of such offences as were committed or triable within the areas in which Martial Law has been proclaimed within the limits of the 16th Indian Division.

2. Such courts (a) shall only take cognisance of cases sent for trial by the Police, (b) shall not try any person for any act which is not an offence under the ordinary law, (c) shall not try any person for any offence which is shown as triable exclusively by the court of session in column 8 of schedule II of the Criminal Procedure Code 1898, (d) shall not in respect of any offence pass any sentence which is not authorised by the ordinary law for that offence (see column 7 of schedule II aforesaid and also the Indian Whipping Act, 1909), and (e) shall not in respect of any offence pass any sentence which could not be passed by a 1st class Magistrate (see section 32 of the Code of Criminal Procedure, 1898)

3. The finding and sentences of such courts shall not be subject to confirmation by any authority, nor shall any appeal or application for revision lie in respect of them.

Schedule of Officers Appointed to be Summary Courts.

(1) All officers who have been or shall hereafter be nominated by the Lieutenant Governor in the exercise of powers conferred by General Officer Commanding the 16th Indian Division to dispose of offences against the regulations contained in the proclamation issued by the said General Officer summarily under Martial Law

- (2) Khan Bahadar Shalkh Rahim Bukhsh Director of Land Records
- (3) Mr A. L. Hoyle, I C S Lyallpur
- (4) Mr J D Penny I C S Sheikhpura.
- (5) Mr F W Phillips, Honorary Magistrate, Lyallpur
- (6) All Cantonment Magistrates

Note — A similar order of the General Officer Commanding and (Rawalpindi) Division was published in which the same officers were appointed to be summary courts within the areas in which Martial Law had been proclaimed within the limits of the 2nd Division.

(Punjab Government Notification No 10657 Home—Military dated the 20th April, 1919.)

It is hereby notified that the General Officer Commanding the 16th Indian Division has divided the portion of his command in which Martial Law has been proclaimed into three Areas, in accordance with Regulation No. 18 of the Proclamation of April 19th, as follows :—

- (a) Amritsar Area comprising civil district of Amritsar
- (b) Lahore Area comprising the civil district of Lahore exclusive of Lahore Civil Area.
- (c) Lahore Civil Area comprising the Municipality of Lahore, Mughalpura and all other places between the River Ravi and the Lahore Branch of of Upper Bari Doab Canal, within a 3 mile radius of the Telegraph Office, Lahore.

2. He has further been pleased to authorize the following officers as Area Officers to dispose of offences summarily under Martial Law in the said Areas :—

Major S. R. Shirley M. C. 54th Sikhs, in the Amritsar Area.

Major H. A. Murray 35th Sikhs, in the Lahore Area, and

- (a) Lieutenant Colonel the Hon ble W F J North, Somerset Light Infantry
- (b) Major E C Barnes, 19th Punjabs,
- (c) Major J C Hunter Superintendant, Carriage and Wagon Department North Western Railway

In the Lahore Civil Area.

A Punjab Government Notification dated the 4th May, 1919, says. —

It is hereby notified that the General Officer Commanding, 2nd (Rawalpindi) Division, has divided the portion of his command in which Martial Law has been proclaimed into the following areas, in accordance with Regulation No 18 of the Proclamation of the 20th April, 1919 —

- (1) Gujranwala area comprising the Gujranwala Tahsil.
- (2) Wazirabad area comprising the Wazirabad Tahsil.
- (3) Khangah Dogran and Sharakpur area comprising Khangah Dogran and Sharakpur Tahsils.
- (4) Hafizabad area comprising Hafizabad Tahsil.
- (5) Gujrat and Kharian area comprising Gujrat and Kharian Tahsils.
- (6) Phalia area comprising Phalia Tahsil.
- (7) Lyallpur area comprising the Lyallpur district.

2. He has further been pleased to authorise the following officers as Area Officers to dispose of offences against the Proclamation of 20th April, summarily under Martial Law in the said area —

- (1) Lieutenant Colonel A. J. O'Brien, C.I.E., C.B.E., in the Gujranwala Area.
- (2) Major C. W. J. Smith, D.S.O., 54th Sikhs, in the Wazirabad Area.
- (3) Mr. B. N. Bosworth Smith in the Khangah Dogran and Sharakpur Area.
- (4) Captain W. J. Cole, Supply and Transport Corps, in the Hafizabad Areas.
- (5) Lieutenant-Colonel C. S. Browne, 37th Dogras, in the Gujrat and Kharian Areas.
- (6) Lieutenant-Colonel S. D. Grant, V.C., 5th Gurkha Rifles, in the Phalia Area.
- (7) Mr. G. F. de Montmorency, C.I.E., and Lieutenant-Colonel G. F. Hodgson, D.S.O., in the Lyallpur Area.

It is hereby notified in the exercise of his powers under Regulation 18 of the Proclamation of the General Officer Commanding, the 2nd (Rawalpindi) Division, dated the 20th April, 1919, the General Officer Commanding, the Wazirabad Brigade, has nominated the following officers to dispose of offences against the Proclamation of 20th April, 1919, summarily under Martial Law — Captain T P Wheatley, 1st Garrison Battalion, Yorkshire Regiment; Captain W. J. Cole, Supply and Transport Corps; and Captain J. S. L. Ewing, M. C., 19th Lancers, in the Gujranwala Area.

(Punjab Government Notification No 1058 Military dated the 20th April 1919.)

In exercise of the power conferred by Regulation No 18 of the Proclamation issued by the General Officer Commanding the 16th Indian Division, dated the 19th April 1919 the Lieutenant Governor hereby nominates the following officers to dispose of offences against the Regulations contained in the said Proclamation summarily under Martial Law where such offences have been committed within the areas in which Martial Law has been proclaimed within the limits of the 16th Indian Division:—

Mr A J W. Mitchin, C.I.E. Commissioner Lahore.

Mr Miles Irving Deputy Commissioner Amritsar

Mr G D. Rudkin Joint Deputy Commissioner Amritsar

Mr F H. Puckle Assistant Commissioner Amritsar

} With effect
from the date
of their assum-
ing charge
of their ap-
pointments.

Mr H. Fyson Deputy Commissioner Lahore.

Majr M. L. Ferrar Joint Deputy Commissioner Lahore

With effect
from the date of
his taking charge
of his appoint-
ment.

Lieutenant Colonel A J. O'Brien, C.I.E. C.B.E. Deputy Commissioner Gujranwala.

Mr B. N. Bosworth Smith, Joint Deputy Commissioner Gujranwala

With effect
from the date of
his taking over
charge.

Mr A. A. McC. Mitchell Assistant Commissioner Lahore

Mr P. Marsden Assistant Commissioner Sub-Divisional Officer Kasur

Mr F. B. Wace, Assistant Commissioner Gujranwala.

Mr S. M. Jacob, Director of Agriculture.

Mr R. B. Beckett, Assistant Commissioner Amritsar

Mr F. A. Connor Extra Assistant Commissioner Amritsar

Mr J. E. Keough, Extra Assistant Commissioner Lahore.

Mr E. A. Penberow Extra Assistant Commissioner Lahore.

The following *Punjab Gazette* Extraordinary dated April 23rd 1919, was issued:—In exercise of the powers conferred by the Proclamation issued by the General Commanding the 2nd (Rawalpindi) Division, dated the 20th of April, 1919, the Lieutenant Governor hereby nominates the following officers to dispose of offences against the Regulations contained in the said Proclamation summarily under Martial Law where such offences have been committed within the areas in which Martial Law has been proclaimed within the limits of the 2nd (Rawalpindi) Division:—

The Hon. Mr C. J. Halifax C. B. E. Commissioner Rawalpindi

Lieutenant Colonel A. J. O'Brien, C B E , C. I. E. Deputy Commissioner, Gujranwala.

Mr. B N Bosworth Smith, Joint Deputy Commissioner, Gujranwala ,

Mr B. Wace Assistant Commissioner, Gujranwala ,

Mr. S M Jacob, Director of Agriculture ,

Mr. H. S Williamson, Deputy Commissioner, Gujrat

(The Punjab Government Notification No 1113, Military, dated April 23rd, 1919)

With reference to Home Department notification No 10657, dated the 20th of April, it is hereby notified that the General Officer Commanding the 16th Indian Division has been pleased to authorise the following officers Area Officer to dispose of offences summarily under Martial Law in the Lahore Area —

Captain A. G. Doveton, 30th Punjabis.

The following *Punjab Gazette* Extraordinary was issued on the 24th April 1919 —In exercise of powers conferred by Regulation 18 of the Proclamation issued by the General Officer Commanding the 16th Indian Division dated the 19th April, 1919, and by Regulation 18 of the Proclamation issued by the General Officer Commanding the 2nd (Rawalpindi) Division, dated the 20th of April 1919, the Lieutenant-Governor hereby nominates the following officers to dispose of offences against the Regulations contained in the said Proclamations summarily under Martial Law within the areas in the Lyallpur District in which Martial Law has been proclaimed within limits of the 16th Indian Division and the 2nd Rawalpindi Division respectively —

Lieutenant-Colonel C Powney Thompson, Commissioner, Multan , and

Mr. G. F deMontmorency, Deputy Commissioner

A Punjab Government notification, dated 4th May (Military) says —

“It is hereby notified that in the exercise of his powers under Regulation No. 18 of the Proclamation of the General Officer Commanding, the 2nd (Rawalpindi) Division, dated the 20th April 1919, the General Officer Commanding, the Wazirabad Brigade, has nominated the following officers to dispose of offences against the Proclamation of 20 April, 1919, summarily under Martial Law —

Captain T P Wheatley, 1st Garrison Battalion, Yorkshire Regiment

Captain W. J. Colé, Supply and Transport Corps, and

Captain J S L. Ewing, M C., 19th Lancers, in the Gujranwala Area,”

With reference to Notification No. 10657 Home—Military dated the 30th April, 1919, it is hereby notified that the General Officer Commanding the 16th Indian Division has authorised the following officers as Area Officers to dispose of offences against the Regulations contained in the Proclamation issued by the said General Officer Commanding summarily under Martial Law :—

Mr F. B. R. Spencer, Cantonment Magistrate, *vice* Major H. A. Murray 35th Sikhs; Khan Bahadur Sheikh Rahim Bakhsh, Director of Records, in the Lahore Area —*Punjab Gazette Extraordinary of May 7th 1919.*

F.—MARTIAL LAW NOTICES ISSUED AT LAHORE.

NOTICE

All private car owners must produce their cars at the Punjab Club at 2 P. M.
To day Wednesday or as soon after as they see this notice

By order,
F JOHNSON,
Lieut.-Colonel,
Commanding Civil Station.

Lahore, 15th April, 1919

No. 1.

Whereas the Government of India has for good reasons proclaimed Martial Law in the districts of Lahore and Amritsar and

Whereas superior Military authority has appointed me to command troops and administer Martial Law in a portion of the Lahore District, now known as the "Lahore Civil" command whose boundaries may be described as follows.—

The Civil Lines ,

The Municipality and City of Lahore ,

The Fort ,

The Mogulpura Works ,

and any other area not included in the above between the Ravi River and Lahore Branch of the Bari Doab Canal inclusive within three miles of the Central Telegraph Office, Lahore ,

And whereas Martial Law may be briefly described as the will of the Military Commander in enforcing law, order and public safety

I make known to all concerned that until further orders by me the following will be strictly carried out —

1. At 20 30 hours each evening a gun will be fired from the Fort, and from that signal till 05 00 hours on the following morning no person other than a European or a person in possession of a Military permit signed by me or on my behalf will be permitted to leave his or her house or compound or the building in which he or she may be at 20 hours. During these prohibited hours no person other than those excepted above will be permitted to use the streets or roads, and any person found disobeying this order will be arrested, and if any attempt is made to evade or resist that person will be liable to be shot.

This and all other orders which from time to time I may deem necessary to make will be issued on my behalf from the Water Works Station in the City whither every Ward will keep at least four representatives from 6 A. M. till 17 00 hours daily to learn what orders, if any are issued and to convey such orders to the inhabitants of their respective Wards. The onus of ascertaining the orders issued by me will rest on the people through their representatives.

2. Loyal and law-abiding persons have nothing to fear from the exercise of Martial Law

3. In order to protect the lives of His Majesty's Soldiers and Police under my command, I make known that if any firearm is discharged or bombs thrown at them the most drastic reprisals will instantly be made against property surrounding the scene of the outrage. Therefore it behoves all loyal inhabitants to see to it that no evil-disposed *agitator* is allowed on his premises.

4. During the period of Martial Law I prohibit all processions, meetings or other gatherings of more than 10 persons without my written authority and any such meetings, gatherings or processions held in disobedience of this order will be broken up by force without warning.

5. I forbid any person to offer violence or cause obstruction to any person desirous of opening his shop or conducting his business or proceeding to his work or business. Any person contravening this order will be arrested, tried by a Summary Court and be liable to be shot.

6. At present the City of Lahore enjoys the advantage of electric lights and a water-supply; but the continuance of these supplies will depend on the good behaviour of the inhabitants and their prompt obedience to my orders.

FRANK JOHNSON LIEUT.-COL.

2-6 Battalion, Royal Sussex Regiment,

Commanding Lahore (Civil) Area.

Head-Quarters, Punjab Club;

Lahore, 15th April, 1919.

No. 2.

All tongas and tum-tums whether licensed for hire or otherwise will be delivered up to the Military Officer appointed for that purpose at the Punjab Light Horse ground by 17-00 to-day—Tuesday 15th April. Drivers will receive pay and horses be rationed.

FRANK JOHNSON LIEUT.-COL.

Commanding Lahore (Civil) Area.

No. 3.

All motor cars or vehicles of any description will be delivered to the Military Officer appointed for that purpose at the Punjab Club by 17 00 this day.

FRANK JOHNSON, LIEUT. COL.,
Commanding Lahore (Civil) Area.

No. 4

By virtue of the powers vested in me, I have prohibited the issue of Third or Intermediate Class tickets at all Railway Stations in the Lahore Civil Command except only in the case of servants travelling with their European Master or servants, or others in the employ of the Government.

FRANK JOHNSON, LIEUT. COL.,
Commanding Lahore (Civil) Area

Headquarters, Punjab Club.

Time : 22 00 hours.

Lahore, 15th April, 1919

No. 5.

Whereas, from information received by me, it would appear that shops, generally known as Langars, for the sale of cooked food are used for the purpose of illegal meetings and for the dissemination of seditious propaganda, and whereas I notice that all others shops (particularly in Lahore City) have been closed as part of an organised demonstration against His Majesty's Government, now therefore, by virtue of the powers vested in me under Martial Law, I order that all such Langars or shops for the sale of cooked food in the Lahore Civil Area, except such as may be granted an exemption in writing by me, shall close and cease to trade by 10 00 hours to morrow, Wednesday, 16th April, 1919.

Disobedience to this order will result in the confiscation of the contents of such shop, and the arrest and trial by summary procedure of the owner or owners

FRANK JOHNSON, LIEUT.-COL.,
Commanding Lahore (Civil) Area.

Headquarters, Punjab Club, Lahore

Time : 23 00 hours.

15th April, 1919

No. 6.

Whereas I have reasons to believe that certain munshis, agents, dalals and chuprassees employed by legal practitioners in Lahore, are engaged in disseminating

seditions propaganda, therefore by virtue of the powers vested in me under Martial Law I make the following Order :—

(1) No such munshi agent, dalal or chuprassee shall leave the Lahore Civil Command without a permit signed by me or on my behalf

() Every legal practitioner resident in this Command will submit to me through the Deputy Commissioner of Lahore by 16-00 hours to-day a complete list of every munshi agent, dalal or chuprassee directly employed by him

FRANK JOHNSON LIEUT -COL.

Commanding Lahore (Civil) Area

Headquarters, Punjab Club, Lahore

Time : 08-00 hours.

Lahore 16th April 1919

No 7

Whereas I have reason to believe that certain students of the D. A. V. College in Lahore are engaged in spreading seditious propaganda directed against His Majesty's Government and whereas I deem it expedient in the interests of the preservation of law and order to restrict the activities of such students, I make the following Order :—

All students of the said College now in this Command Area will report themselves to the Officer Commanding Troops at the Bradlaugh Hall daily at the hours specified below and remain there until the roll of such students has been called by the Principal or some other Officer approved by me acting on his behalf and until they have been dismissed by the Officer Commanding Troops at Bradlaugh Hall

07-00 hours.

11-00 hours.

15-00 hours.

19-30 hours

Headquarters, Punjab Club, Lahore.

Time : 08-00 hours.

16th April, 1919.

FRANK JOHNSON LIEUT COL.

Commanding Lahore (Civil) Area.

No. 8.

Whereas some evilly disposed persons have torn down or defaced notices and orders which I have caused to be exhibited for the information and good government of the people in the Lahore (Civil) Command.

In future all orders that I have to issue under martial law will be handed to such owners of property as I may select, and it will be the duty of such owners of property to exhibit and keep exhibited and undamaged, in the position on their property selected by me, all such orders,

The duty of protecting such orders will therefore devolve on the owners of property and failure to ensure the proper protection and continued exhibition of my orders will result in severe punishment.

Similarly I hold responsible the owner of any property on which seditious or any other notices, proclamations or writing not authorized by me are exhibited.

FRANK JOHNSON, LIEUT -COL ,

Commanding, Lahore (Civil) Area.

Headquarters, Punjab Club, Lahore.

April, 16th 1919.

No 9

WHEREAS the leaders of the people whom I summoned to meet me yesterday have not kept their promise to arrange for my orders to be communicated to the people in their respective wards, AND WHEREAS, I deem it expedient for the sake of the people themselves that they should not be exposed to the risk of disobeying my orders through the neglect of their own leaders

NOW THEREFORE I give notice that copies of all orders and notices issued by me under Martial Law will be exhibited at the following places —

[Here follows a list of forty names].

No 9 (*Revised*)

WHEREAS, it has been found expedient to revise Martial Law Order No 9,

NOW THEREFORE, I give notice that copies of all Orders and Notices issued by me under Martial Law will be exhibited at the following places —

Inside the City

1. House of Mehta Amin Chand, Pleader, Gali Bhaddar Kali, Wachowali.
2. House of Dr. Khalifa Shuja-ud-Din, Bar-at-Law, Kucha Tirgaran, inside Mochi Gate.
3. Baitak of Suba, Contractor, Wazir Khan's Chawk
4. House of Dr Nihal Chand, Sikri, Wachowali
5. House of Jai Gopal Tandon, Manager, *Punjab* Press, inside Shahalmi Gate
6. Shop of Fazal Din, Book-seller, Kashmiri Bazar.
7. House of Lala Kanshi Ram, Kapur, Works Reservoir
8. House of Lala Sardari Lal, Vaid, Gumti Bazar.
9. House of Lala Kidar Nath, Contractor, Niween Gali, Sathan.

And I warn all concerned that disobedience of this order without valid reason will result in the immediate opening by me of such shops or business premises by force, and that any resultant loss arising out of such forcible opening will rest on the owners or occupiers of such shops or businesses.

FRANK JOHNSON LIEUT.-COL.

Head Quarters Punjab Club,

Commanding Lahore (Civil Area)

Time: 22-00 hours.

Lahore 16th April, 1919

No 11

WHEREAS I think it advisable to take such steps as I think necessary for prevention of violence and the preservation of good order more particularly for prevention of injury to His Majesty's Soldiers and Police as well as to all law-abiding citizens in the Area under my Command, I make the following order:—

From and after the promulgation of this order it shall be illegal for any person to carry or be found in possession of an instrument known as a *lathi*.

All persons disobeying this order will be arrested, tried by summary proceedings and punished under the powers conferred on me by Martial Law.

FRANK JOHNSON LIEUT.-COL.

Head Quarters, Punjab Club, Lahore.

Commanding Lahore (Civil Area)

Time: 22-00 hours.

Lahore 16th April 1919

No 12.

WHEREAS I deem it expedient to take further steps for the prevention of violence and intimidation and for the maintenance of good order in the area under my Command I make the following order:—

From and after the promulgation of this Order it shall be unlawful for more than two persons to walk abreast on any constructed or clearly defined pavement or side walk in such Area, and disobedience to this Order will be punished under all such special powers as are conferred on me by Martial Law.

FRANK JOHNSON LIEUT.-COL.

Head-Quarters, Punjab Club, Lahore.

Commanding Lahore (Civil Area)

Time: 22-00 hours.

16th April, 1919

Notice to Motorists

A picket is stationed at the Ferozpur Road cross roads leading into Lahore Cantonment, and cars must stop there otherwise they will be fired upon.

FRANK JOHNSON LIEUT.-COL.

Headquarters, Punjab Club, Lahore.

Commanding Lahore (Civil Area)

Time: 11 10 hours.

17th April, 1919.

No 13

WHEREAS information laid before me shows that a Martial Law Notice issued by me and posted by my Order on a property known as the SANATAN DHARAM COLLEGE HOSTEL ON BAHAWALPUR ROAD, has been torn or otherwise defaced, in contravention of my Martial Law Notice No 8

NOW THEREFORE by virtue of the powers vested in me under Martial Law, I order the immediate arrest of all male persons domiciled in the said Hostel and their internment in the Lahore Fort pending my further Orders as to their trial or other disposal

FRANK JOHNSON, LIEUT.-COL.,

Headquarter, Punjab Club, Lahore

Commanding Lahore (Civil) Area

Time 15-25, hours

17th April, 1919

No. 14.

WHEREAS practically every shop and business establishment in the area under my Command has been closed in accordance with the *hartal* or organized closure of business directed against His Majesty's Government

AND WHEREAS the continuance or resumption of such *hartal* is detrimental to the good order and governance of the said Area

AND WHEREAS I deem it expedient to cause the said *hartal* to entirely cease

NOW THEREFORE by virtue of the powers vested in me by Martial Law, I make the following order, namely —

By 10-00 hours to morrow (Friday), the 18th day of April 1919, every shop and business establishment (except only *langars* referred to in Martial Law Notice No. 5, dated 15th April, 1919) in the Area under my Command shall open and carry on its business and thereafter daily shall continue to keep open and carry on its business during the usual hours, up to 20 00 hours, in exactly the same manner as before the creation of the said *hartal*

And likewise I order that every skilled or other worker will, from 10 00 hours to morrow resume and continue during the usual hours his ordinary trade, work or calling

And I warn all concerned that if at 10 00 hours to morrow, or at any subsequent time, I find this Order has been without good and valid reason disobeyed, the persons concerned will be arrested and tried under the summary procedure of Martial Law, and shops so closed will be opened and kept open by force, and any resultant loss arising from such forcible openings will rest on the owners and on occupiers concerned

And I further warn all concerned that this Order must be strictly obeyed in spirit as well as in letter that is to say that to open a shop and then refuse to sell goods and to charge an exorbitant or prohibitive rate will be deemed a contravention of this Order

FRANK JOHNSON LIEUT COL.

Headquarters, Punjab Club

Commanding Lahore (Civil) Area.

Time : 10-10 hours

Lahore 17th April 1919

No 15

WHEREAS it has come to my knowledge that the present state of unrest is being added to and encouraged by the spreading of false inaccurate or exaggerated reports or rumours.

NOW THEREFORE by virtue of the powers vested in me by Martial law I give notice that any person found guilty of publishing, spreading or repeating false inaccurate or exaggerated reports in connection with the Military or political situation will be arrested and summarily dealt with under Martial Law

FRANK JOHNSON LIEUT COL.

Headquarters, Punjab Club

Commanding Lahore (Civil) Area.

Time : 10-20 hours,

Lahore 16th April 1919

No 16

Whereas I have reason to believe that certain student of the Dyal Singh College in Lahore are engaged in spreading seditious propaganda directed against His Majesty's Government and whereas I deem it expedient in the interests of the preservation of law and order to restrict the activities of such students, I make the following Order :—

All students of the said College now in this Command Area will report themselves to the Officer Commanding Troops at the Telegraph Office daily at the hours specified below and remain there until the roll of such students has been called by the Principal or some other Officer approved by me acting on his behalf, and until they have been dismissed by the Officer Commanding Troops at the Telegraph Office

07-00 hours.

11-00 hours.

15-00 hours.

19-00 hours.

First parade at 17-00 hours on 19th April, 1919.

Headquarters Punjab Club.

FRANK JOHNSON LIEUT COL.

Time 16-00 hours,

Lahore 18th April 1919.

Commanding Lahore (Civil) Area.

NOTICE.

It is hereby notified that applications for Night and Railway Passes will be attended to only at the following hours —

From 10 00 to 13 00 hours, and

From 14 00 to 17 00 hours.

Head quarters, Punjab Club

D VANRENEN, MAJOR,

Staff Officer,

Lahore, 18th April, 1919

Lahore (Civil) Command

MEMORANDUM TO OFFICERS COMMANDING UNITS AND DETACHMENTS, POLICE OFFICERS AND MAGISTRATES

(1) In order to prevent the occurrence of regrettable incidents it must be clearly understood that the existence of Martial Law neither necessitates nor justifies the committed of excesses either in—

- (a) the maintenance of order,
- (b) in enforcing obedience to Martial Law Regulations,
- nor (c) in the infliction of punishment

(2) The guiding principle to be borne in mind is that the force required in (a) and (b) and the ensuing punishment should never exceed the immediate necessities of the case

(3) The punishment of whipping in particular, whilst probably the most efficacious and convenient method of summarily dealing with most minor breaches of Martial Law Regulations, requires tact and commonsense in its infliction. Under no circumstances should old or feeble men be flogged, and the social status of the offender also needs consideration

(4) It cannot be too clearly impressed on all ranks that the temporary supersession of the ordinary process of Civil Law by the introduction of Martial Law, does not mean that justice ceases to be administered, on the contrary, the suspension of the usual safeguards makes it doubly imperative that all concerned should bear in mind that it is "up to them" to see that justice, and not irresponsible violence, is administered

(5) When in any case Officers or Magistrates acting on my behalf are doubtful as to the suitable punishment to be inflicted, the case can always be remanded and the question referred to me. In nearly all cases this can be done by telephone, obviating any delay

(6) Nothing in the above is to be read as weakening the hands of all responsible for strictly maintaining good order and enforcing Martial Law Regulations

FRANK JOHNSON, LIEUT -COL.,

Headquarters, Punjab Club,

Commanding, Lahore (Civil) Area,

Time 08-00 hours

Lahore, 18th April, 1919

WHEREAS it is deemed desirable to provide for the better mobility of His Majesty's Troops in the Area under my Command (and in those adjacent thereto)

NOW THEREFORE by virtue of the powers vested in me by Martial Law I make the following orders :—

1 From and after this date no motor nor pedal-driven cycle shall leave the area under my Command without a permit signed by me or on my behalf

2 All owners of motor and other cycles shall when ordered to do so by me whether by notice addressed to them personally or as residents in certain districts or areas, or members of certain institutions, trades, or callings, deliver all cycles owned or possessed by them to the Officer appointed to receive them on my behalf at the place and by the hour stated in such Notices which will be published from day to day in (amongst other places) the "Civil and Military Gazette"

3. And I further order that every motor cycle in the Area under my Command, other than those the *bona fide* property of Government or of a Gazetted Officer be delivered to me or the officers appointed by me at the Cinema in McLeod Road between 08-00 and 13-00 hours on Monday 21st April, 1919 and thereafter it will be a contravention of Martial Law for any person, other than those excepted in this paragraph or holding exemption certificates signed on my behalf to be found in possession of a motor cycle whether in running order or otherwise

4. And I further order that all pedal-driven cycles in possession of students on the rolls of the D.A.V. Sanatan Dharam and Dyal Singh Colleges, be delivered to the Officer appointed by me at the Bradlaugh Hall between 09-00 and 13-00 hours on Monday 21st April 1919, and thereafter it will be a contravention of Martial Law for any student of the said Colleges to ride or be in possession of a cycle

And I warn all concerned that failure to comply with this Order or tampering with any cycle to impair its immediate usefulness, will result in severe penalties under Martial Law

FRANK JOHNSON LIEUT.-COL.

Commanding Lahore (Civil) Area

Headquarters, Punjab Club,

Time 22 15 hours,

Lahore 19th April 1919.

No. 18.

SURRENDER OF FIREARMS AND AMMUNITION

WHEREAS it has come to my knowledge that a number of persons in the Area under my Command are in possession of firearms and ammunition, by virtue of exemption, licence or otherwise

AND WHEREAS I deem it desirable in the interests of the safety of His Majesty's Troops and Police and for the prevention of disorder and violence, to take steps to ensure that such arms should not pass by theft or otherwise, into the possession of those who might use them unlawfully,

NOW THEREFORE by virtue of the powers vested in me by Martial Law I do make the following Order, that is to say .—

Any person in possession of any arms or ammunition, ordered by me or by any Officer, Magistrate, Soldier or Policeman acting on my behalf, to surrender for safe custody, such arms and ammunition shall deliver them to me at the place and by the hour mentioned in such Order

And for the purpose of this Order, every Military or Police Officer, Magistrate, Soldier and Policeman shall be deemed to be acting on my behalf

And I warn all concerned that disobedience of this Order will be summarily dealt with by me under Martial Law

FRANK JOHNSON, LIEUT -COL ,
Commanding Lahore (Civil) Area

Headquarters, Punjab Club
Time 12 30 hours,
Lahore, 20th April, 1919.

No. 19

MOTOR DRIVERS

WHEREAS the services of motor drivers are immediately needed,

NOW, THEREFORE, by virtue of the powers vested in me by Martial Law, I make the following order, that is to say —

By 10 00 hours to morrow, the 22nd day of April, 1919, every licensed motor driver, other than a European or a person at present engaged as driver of a commandeered or exempted car, will report himself to Major Lindsay Smith, at the Transport Park, Punjab Light Horse Ground

All drivers so reporting will either be registered or engaged The latter will receive current rates of pay

Headquarters, Punjab Club
Time 08-35 hours,
Lahore, 21st April, 1919

FRANK JOHNSON, LIEUT -COL ,
Commanding Lahore, (Civil) Area

No 20.

WHEREAS on the 15th day of April 1919 in order to minimise the work of the Troops and Police and the better to maintain public order and safety in the Area under my Command by Martial Law Notice No. 1 I forbade certain classes of the inhabitants of the said Area to leave their houses or be in the public streets or roads, between 20-00 hours and 05-00 hours daily

AND WHEREAS as this and other orders issued by me have been carried out to my satisfaction I am desirous of removing as far as possible restrictions which interfere with the religious exercises of certain classes of the inhabitants

NOW THEREFORE, I order and direct that so long as the inhabitants of the area under my Command continue faithfully to obey all orders issued by me in the cause of public order and safety the hours during which the streets etc. are closed shall be between 21-00 hours and 05-00 hours, and this alteration shall come into operation at 1-00 hours on from the 2nd day of April 1919.

Headquarters, Punjab Club.
Time: 10-55 hours
Lahore 21st April 1919

FRANK JOHNSON LIEUT.-COL.,
Commanding Lahore (Civil) Area.

No. 21

TO OWNERS OF CYCLES.

In continuation of paragraph 2 of Martial Law Notice No. 17 dated 19th April 1919 by virtue of the powers vested in me by Martial Law I order that—

All pedal-driven cycles (save and except such as are the bona fide property of Government) owned or possessed by persons, other than Europeans, residing in the district hereinafter described shall be delivered to the Officer appointed by me at the Cinema McLeod Road between the hours of 09-00 and 16-00 to-morrow (Tuesday) the 22nd day of April 1919.

And therefore it will be a contravention of Martial Law for any such person to be in possession of a cycle unless accompanied by a Certificate of Exemption from military service signed on my behalf.

DISTRICT AFFECTED

That portion of the area under my Command that lies South of the City Boundaries and the Ravi River exclusive and North or West of the following roads inclusive:—

Chamberlain Road from the Mochi Gate thence by Thornton Road, Nabha Road and Edward Road to the Junction of Cust and Multan Roads.

Headquarters, Punjab Club.
Lahore 21st April 1919

FRANK JOHNSON LIEUT.-COL.,
Commanding Lahore (Civil) Area.

TO OWNERS OF CYCLES.

In further continuation of paragraph 2, Martial Law Order 17, dated 19th April, 1919, by virtue of the powers vested in me by Martial Law, I order that—

All pedal-driven cycles (save and except such as are the *bona-fide* property of Government) owned or possessed by persons other than Europeans, residing in the district hereinafter described, shall be delivered to the Officer appointed by me at the Fort between the hours of 09 00 and 16-00 to morrow (Wednesday) the 23rd day of April, 1919

And thereafter it will be a contravention of Martial Law for any such person to be in possession of a cycle unless accompanied by a certificate of exemption from Military Service signed on my behalf

For the purposes of this Order, all cycles owned or ridden in the course of duty by Officers or servants of the Government shall be deemed to be the property of Government and therefore exempt from this order

DISTRICT AFFECTED

That portion of the Area under my Command known as the "City."

Headquarters, Punjab Club,
Time 08 55 hours,
Lahore, 22nd April, 1919

FRANK JOHNSON, LIFUT COL
Commanding, Lahore (Civil) Area

RAILWAY PERMITS

1 Notice is hereby given that permits to obtain Third and Intermediate Class Railway Tickets at the Stations in this Area, *viz*, Lahore Junction and Badami Bāgh, can only be obtained on personal application to the Assistant Inspector-General, Railway Police, near Lahore Junction Station or at Command Headquarters, Punjab Club, between 10 00 and 17 00 hours

STREET PASSES

2 Applications for permits to be in the streets during prohibited hours can be obtained at Command Headquarters, Punjab Club, or from the Deputy Commissioner, Lahore (Town Hall Office)

3 All Secretaries of Government and Heads of Government Departments are authorized to issue such passes to their own employees. Books of Passes can be obtained on application to the Deputy Commissioner

Headquarters, Punjab Club,
Lahore, 22nd April, 1919

D VANRENEN, MAJOR,
STAFF OFFICER,
Lahore (Civil) Command

No. 23

WHEREAS it was not possible to receive inspect and issue receipts for all pedal driven cycles surrendered in accordance with Martial Law Order No 21 of 21st April 1919, during the hours specified in the said order

Now therefore I order that all persons residing in the area defined in the said order will deliver cycles in their possession to the Officer appointed by me at the Cinema in McLeod Road between 09-00 and 16-00 hours to-morrow (Thursday) the 24th day of April 1919

Headquarters, Punjab Club,

FRANK JOHNSON LIEUT -COL

Lahore 23rd April 1919.

Commanding Lahore (Civil) Area

No 24.

WHEREAS I deem it expedient to make provision for the preservation of health and the greater comfort of British troops stationed in the Area under my command,

AND WHEREAS a number of electric fans and lights are required in the buildings in which some of such troops are quartered

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I authorize any officer appointed by me for that purpose to enter any college, public building, hostel, hotel, private or other residence or building and remove such number of electric lights and fans required for the purpose aforesaid.

And any attempt to obstruct such removal, or to hide, or to damage or to impair the immediate efficiency of any such fans or lights, will be summarily dealt with under Martial Law

But nothing in this order shall authorize the removal of any fan or light from a room usually inhabited by a woman.

Headquarters, Punjab Club,

FRANK JOHNSON LIEUT COL

Time : 07 25 hours,

Commanding Lahore (Civil) Area.

Lahore 23rd April, 1919

No 25

WHEREAS it was not possible to receive inspect and issue receipts for all pedal driven cycles surrendered in accordance with Martial Law Order No. 22 of 22nd April, 1919, during the hours specified in the said Order

NOW THEREFORE I order that all persons residing in the Area defined in the said Order that is to say "THE CITY" will deliver cycles in their possession to the officer appointed by me at the Fort between 09-00 and 16-00 hours to-morrow Friday the 25th day of April, 1919

Headquarters, Punjab Club,

FRANK JOHNSON LIEUT COL

Time : 07 40 hours,

Commanding Lahore (Civil) Area

Lahore 24th April 1919.

WHEREAS I deem it necessary to take steps for the more complete control of horse drawn vehicles licensed to ply for hire in the Area under my Command, and in order to lessen the chance of further loss and inconvenience to the public by reason of any *Hartal* or refusal to ply for hire,

NOW, THEREFORE, by virtue of the powers vested in me by Martial Law, I order that on and after Monday, the 26th day of April, 1919, no landau, gharry, tonga or tum-tum shall ply for hire in the Area under my Command unless in possession of a permit signed by me or by an Officer acting on my behalf, which permit will be issued on payment shown in the schedule published below

And I further order that the driver of every such licensed vehicle shall also be in possession of a military permit to drive such vehicle, for which a charge of Rs 3 will be made

All vehicles and drivers must obtain the necessary licenses and permits from Major Lindsay Smith, at the Transport Park, Punjab Light Horse Ground between 09 00 and 17 00 hours on the 25th, 26th and 27th days of April, 1919, and failure to obtain such licenses and permits will be dealt with as a breach of Martial Law

Headquarters, Punjab Club
Lahore, 24th April, 1919

FRANK JOHNSON, LIEUT. COL.,
Commanding, Lahore (Civil) Area.

SCALE OF CHARGES FOR MILITARY PERMITS TO PLY FOR HIRE AND DRIVE
LICENSED VEHICLES

Class	Fee		
	Rs	A	P
1st (Landaus)	6	0	0
2nd (Gharries)	5	0	0
3rd (Tongas) A	3	8	0
3rd (Tongas) B	3	0	0
4th (Tum-tum)	2	0	0
Drivers' Permits	1	8	0

WHEREAS, from information laid before me, I have reason to believe that a large number of students at the King Edward Medical College, Lahore, have openly given expression to seditious sentiments and cries

AND WHEREAS, I deem it expedient to limit the mischievous activities of such students.

NOW, THEREFORE by virtue of the powers vested in me by Martial Law I make the following Orders:—

1 No student on the rolls of the said College at present residing in the Area under my Command shall leave such area without a permit signed by me or on my behalf

2 All student of 1st, 2nd 3rd and 4th years of the M B B S Class of the said College now residing in the Area under my Command save and except those as to whose loyalty I am satisfied and to whom on the recommendation of the Principal I may grant exemption will from the promulgation of this Order report themselves to the Officer Commanding Troops at Pattala House daily at the hours specified below and remain there until the roll of such students has been called by an Officer appointed by the Principal and approved by me and until they have been dismissed by the Officer Commanding Troops at Pattala House:—

07-00 hours.

11-00 hours.

15-00 hours.

19-00 hours.

NOTE.—4th year students are exempted from attendance at the 07-00 hours roll call.

3 At 11-00 hours to-morrow (Saturday) the 26th day of April 1919, in lieu of the roll-call at Pattala House such roll-call will take place at the Fort, Lahore, and every such student in possession of a cycle will there and at that hour deliver it to the officer appointed by me and thereafter during the continuance of Martial Law or until such time as I may rescind or modify this Order any such student in possession of a cycle shall be deemed to have contravened Martial Law

And I warn all such students that absence from any roll-call without reasonable excuse will be severely punished

Headquarters, Punjab Club
Time 07-40 hours,
Lahore 25th April 1919.

FRANK JOHNSON LIEUT COL
Commanding Lahore (Civil) Area

No 28.

WHEREAS on the 23rd instant some evilly disposed person set fire to the contents of a pillar letter box, causing loss and inconvenience to the public.

AND WHEREAS such offence can at present only be dealt with under process of Civil Law

NOW THEREFORE, by virtue of the powers vested in me under Martial Law I hereby order that damage or attempted damage to or theft of any postal matter or

Post Office property in the Area under my Command, shall be deemed to be an offence under Martial Law, punishable with all the certainty, celerity and severity of such Law.

FRANK JOHNSON, LIEUT COL.,
Commanding, Lahore (Civil) Area.

Headquarters, Punjab Club,

Time 08 50 hours,

Lahore, 25th April, 1919.

No 29.

WHEREAS by Martial Law Order No 14, of 17th April, 1919, I warned dealers in the Area under my Command against charging exorbitant prices for their goods

AND WHEREAS I find that the current retail price for *Atta* is as much as 5½ seers per rupee, whilst *Atta* can be purchased by retail shopkeepers at Rs 5 13 0 per maund, so that such shopkeepers are making a profit of about Re 1-7 4 per maund which is approximately equivalent to 25 per cent. *per diem*

AND WHEREAS I deem such profit to be exorbitant and unlawful, and further that it is necessary to protect the people from the hardship and injustice of such exorbitant price

NOW, THEREFORE, by virtue of the powers vested in me by Martial Law, I shall from time to time fix and determine the prices at which the necessities of life shall be sold.

And I now order that—

From and after 17 00 hours this day and until further notice, it shall be a contravention of Martial Law, for any dealer in *Atta* to —

- (1) refuse to sell *Atta* when requested to do so, and
- (2) to supply less than 6½ (six-and a half) seers per rupee (which will allow such retail dealer the excellent profit of annas 5/5½ per maund or say 5 per cent *per diem* on his capital involved).

And so that no retail dealer in *Atta* shall be able to plead, as an excuse for contravention of this Order, his inability to purchase *Atta* at the wholesale price named above, I give notice that on application being made to the Officer appointed by me for that purpose, *viz.*, the Director of Civil Supplies, whose office is with that of the Director of Agriculture near the Civil Secretariat, he will give all necessary information and facilities to enable such retail shopkeepers to supply themselves with *Atta* at the said wholesale price, *viz.*, Rs 5 13 0 per maund

And finally I warn all concerned that unless the present unaffordable prices, particularly of the necessities of life are at once materially reduced I shall gradually fix the price of every article

FRANK JOHNSON LIEUT.-COL.

Headquarters, Punjab Club,

Time: 15.10 hours,

Lahore 29th April 1919

Commanding Lahore (Civil) Area

No. 33

WHEREAS it has come to my knowledge that attempts are frequently made to extort money from persons with a view to either saving them from penalties for intentional or other breaches of Martial Law or for the purpose of removing them from the restrictive incidence of such Martial or other Laws;

AND WHEREAS I deem such conduct gravely detrimental to the good order and governance of the Area under my Command;

I THEREFORE, by virtue of the powers vested in me under Martial Law Regulation No. 15 declare that it is an offence under Martial Law for any person in the said Area to offer or receive money or other valuable consideration or to act as agent or "go-between" in any transaction or proposed transaction by virtue of which the person paying such money or giving such consideration expects, or is promised, to evade any penalties or proceedings or to obtain any benefit of any kind whatsoever under Martial or other Laws, or Orders.

And I warn all concerned that any person convicted of any breach of this Order in the said Area is liable to two years imprisonment or fine and whipping

FRANK JOHNSON LIEUT.-COL.

Headquarters, Punjab Club

Time: 17.15 hours.

Lahore and May 1919

Commanding Lahore (Civil) Area.

No. 34.

WHEREAS I have trustworthy information that certain dealers in wheat in the Area under my Command are evading Martial Law Order No 32, dated 29th April 1919, and refusing to sell wheat at the price fixed by me on the ground that their supply of wheat is exhausted;

AND WHEREAS I have reason to believe that certain of the said dealers on the contrary have secret stores of wheat

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I make the following order —

Every trader, banker, hundiawar or other person in the said Area who owns or possesses, directly or indirectly wheat exceeding 5 maunds in weight shall render

to me in writing (enclosed in an envelope marked "Wheat") by 09 00 hours on the 7th day of May 1919, a return showing the total quantity of wheat owned or possessed by him

And so that no person intending to evade this Order may subsequently, when faced with the consequences of such evasion, complain that he was unaware of the procedure to be adopted by me,

I warn all concerned that as soon as possible after the hour named for the rendering of the said Returns I shall cause them to be published, and at the same time offer substantial rewards for information that will lead to the conviction of any person liable to submit or submitting an inaccurate Return

And such reward will be paid by the persons disobeying this Order in addition to such other punishment as by virtue of Martial Law, I am empowered to impose

And I further warn would be reformers of the consequences of wilfully giving me false information

Headquarters Punjab Club,
Lahore, 5th May, 1919

FRANK JOHNSON, LIEUT. COL.,
Commanding Lahore (Civil) Area

NOTICE

The public are hereby informed that a limited number of Hackney Carriages are plying for hire between 21 00 and 5 00 hours. These may be obtained at Shabbu Mal's Sarai, near Iqbal's Hotel, Telephone No. 71; and the Hackney Carriage Stand on the Cooper Road, Telephone No. 132

Persons other than Europeans making use of such Hackney Carriages must themselves be in possession of a permit entitling them to be out after 21 00 hours

FRANK JOHNSON, LIEUT. COL.,
Commanding Lahore (Civil) Area
Headquarters, Punjab Club,
Lahore, 4th May, 1919

No 35

WHEREAS by Martial Law Order No. 14 of 17th April, 1919, I warned dealers in the Area under my Command against charging exorbitant prices for their goods,

AND WHEREAS on the 1st May I met at the Town Hall, Lahore, a large number of growers of, and wholesale and retail dealers in, vegetables, discussed the costs of production, transport and selling, pointed out the present unjustifiable prices of many vegetables particularly those that form part of the necessities of life of the poorer classes, and finally gave the said producers and dealers three days in which to reduce their prices,

AND WHEREAS I find that notwithstanding my request for a reduction in the said prices:

NOW THEREFORE by virtue of the power vested in me by Martial Law I make the following Order that to wit:-

From 0100 hours on Wednesday the 7th day of May 1919 it shall be a contravention of Martial Law for any dealer or other person in the Area under my Command to charge or attempt to charge more than the price shown below:

And any person found guilty of contravening this Order will be severely punished.

NAME OF ARTICLE	MAXIMUM RETAIL PRICE
Buggin	Rs. 1 6 per seer
Jutli	3 0
Bhimditioti	4 6
Karele	6 0
Turi (green)	2 6
Tomatoes	3 0
Kada (ghua)	0 6 each
Cabbages	0 9
Onions (dry)	0 9 per seer
(green)	0 6
Potatoes	1 3
Peas	5 0
Sa	1 3
Ka lu (Fahari)	0 9 each
Khera	0 3
Kakri	0 3

FRANK JOHNSON LIEUT. COL.

Headquarters, Punjab Club,

Commanding, Lahore (Civil) Area.

Time: 15 20 hours

Lahore 5th May 1919

No. 36.

WHEREAS by Martial Law Order No. 27 of the 25th April 1919, I ordered certain action to be taken against all students on the rolls of the King Edward Medical College Lahore on account of the seditious conduct of certain of them;

AND WHEREAS the Principal of the said College has now reported to me that he has inflicted the following punishments, that is to say:—

(1) To be forthwith expelled from and permanently removed from the rolls of the College:—

- | | |
|-----------------------|---------------------|
| 1. Qasim Lal | First year student |
| 2. Nanak Chand 1 year | Second year student |

3.	Hans Raj Madan	Third year student
4.	Jagat Ram Phatra	Do
5.	Gan Chand Bhatta	Fourth year student
6.	Gopal Singh Chowla	Do
7.	Lal Singh Subotra	Do
8.	Ram Natta	Do
9.	Parma Nand	Do.
10.	Hans Raj Chhibber	Do.

(2) To suffer the loss of one (1) year's seniority —

1.	Kulwant Rai	First year student
2.	Jagmunda Singh	Do.
3.	Kalya Lal Bhandari	Second year student.
4.	Lakshmi Narain	Do
5.	Gurbakhsh Rai Dhamatti	Do
6.	Shamsher Singh	Third year student.
7.	Kishori Lal	Fourth year student.
8.	Amolak Ram Mehta	Do
9.	Hira Lal Sachdeva	Do

(3) To forfeit their scholarships —

1.	Qasim Lal	First year student
2.	Kulwant Rai	Do
3.	Jagat Ram Bhatta	Third year student
4.	Shamsher Singh	Do
5.	Kishori Lal	Fourth year student
6.	Amolak Ram Mehta	Do

(4). To have their scholarships suspended for three months —

1.	Mohan Lal	First year student.
2.	Parma Nand Bhatta	Do
3.	Lakshur ud Din	Do
4.	Ram Lal Ubrai	Do.
5.	Ch. Hakim Din	Second year student.
6.	Jagat Ram Sahu	Do
7.	Amar Nath Chopra	Do
8.	Jhanga Ram	Do
9.	Mokham Chand	Third year student
10.	Sh. Muhammad Yusuf	Do
11.	Hukam Chand Gupta	Do
12.	Bhagwant Kishori Sikand	Do
13.	Vishnu Das Kashyap	Fourth year student
14.	Jagan Nath Chopra	Do
15.	Daulat Ram Mehta	Do
16.	Har Bhajan Singh	Do

30
AND WHEREAS I consider the aforesaid punishments, although very merciful to be sufficient to restrain the remaining and future students from being misled into disloyal and seditious action ;

I direct that adequate disciplinary action having thus been taken against the College from the promulgation of this Order the students shall be relieved of restrictions and liabilities imposed by Martial Law Order No 27

FRANK JOHNSON, LIEUT COL

Headquarters, Punjab Club

Commanding Lahore (Civil) Area.

Time : 12 50 hours

Lahore 5th May 1919.

No 37

WHEREAS by Martial Law Order No. 14 of the 17th April 1919, I warned all dealers in the Area under my Command against charging exorbitant prices for their goods ;

AND WHEREAS many complaints having been made to me concerning the present price of Mutton and Goatflesh, I made and caused to be made exhaustive enquiries into the working of the meat trade in this Area.

AND WHEREAS as a result of such enquiries I find that a profit of about Rs. 3½ being made on an outlay of Rs. 8½ which I deem to be unjustifiable

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I make the following Order :—

From 05-00 hours on Friday the 9th day of May 1919, it shall be a contravention of Martial Law for any Butcher or dealer in meat to charge or attempt to charge more than the following prices :—

Mutton	per seer 6 annas.
Goat flesh	5

And being confident that a sufficiency of live animals can be obtained at a price to yield the butcher a reasonable profit on the basis of the above price.

I warn all concerned that it will be an offence against Martial Law for any person, who during the past week has generally dealt in Meat to refuse without valid reason, to sell meat at the price now fixed when called upon to do so.

FRANK JOHNSON LIEUT COL,

Headquarters, Punjab Club

Commanding Lahore (Civil) Area

Time : 13 10 hours

Lahore 7th May 1919

No 38.

In accordance with the notice contained in Martial Law Order No 34 of 30th May, 1919, I publish below the returns rendered to me as to stock of wheat held in the Area under my Command —

And I further give notice that a reward varying in accordance with the magnitude of the misstatement proved, but in no case less than Rs 50 nor more than Rs 500 will be paid to any person giving information which leads to the conviction of a person who has failed to render a return (or rendered one containing materially inaccurate figures) in response to Martial Law Order No 34.

[The above returns are being published as 22,000
in total weight]

FRANK JOHNSON, Lieut. Col.,

Headquarters, Punjab Club,

Commanding, Lahore (Civil) Area.

Time : 12.00 hours

Lahore, 7th May, 1919.

No 39

WHEREAS my attention has been drawn to the rising price of Gram,

AND WHEREAS I have reason to believe that certain dealers in the Area under my Command are holding secret stores of Gram, the price of which is thereby artificially inflated,

NOW, THEREFORE, by virtue of the powers vested in me by Martial Law, I make the following Order —

Every trader, banjar, bunnar, or other person in the said Area who owns or possesses, directly or indirectly, Gram exceeding 5 maunds in weight, shall render to me in writing (enclosed in an envelope marked "Gram") by 09.00 hours on the 11th day of May, 1919, a Return showing the total quantity of Gram owned or possessed by him.

And so that no person intending to evade this Order may subsequently, when faced with the consequences of such evasion, complain that he was unaware of the procedure to be adopted by me

I warn all concerned that as soon as possible after the hour named for the rendering of the said Returns, I shall cause them to be published, and at the same time offer substantial rewards for information that will lead to the conviction of any person failing to submit or submitting an inaccurate Return.

And such reward will be paid by the person disobeying the Order in addition to such other punishment as, in virtue of Martial Law I am empowered to impose.

And I further warn would be informer of the consequences of giving me false information.

Headquarters, Panjval Clahs,

Time 13 40 hours.

Lahore Sikh War 1919

FRANK JOHNSON

Lieutenant Colonel,

Commander-in-Chief (Civil) Area

No 40

WHEREAS representations have been made to me regarding the hardship suffered by the poorer classes of the people owing to the present high prices of cotton cloth ;

AND WHEREAS I find that the Cloth Merchants in the Area under my Command with the hope and intention of enriching themselves, have purchased large stock of cotton goods at high prices, and are now faced with a loss owing to the fall in the price of such goods in the markets of the world ;

AND WHEREAS I find such Merchants are naturally opposed to the introduction of cheaper cloths until such time as their present stocks are exhausted

AND WHEREAS the Government of India, studying the interest of the poorer people, did by the Cotton Cloth Act of 1918, secure a certain percentage of the output of all Cotton Mills in India at a low rate

AND WHEREAS I find that such cheap cotton cloth known as "Standard" cloth is not at present available to the people of Lahore ;

AND WHEREAS the Director of Civil Supplies, acting for me, has obtained a sufficient quantity of such Standard cloth, and I deem it preferable to permit the ordinary Cloth Merchants to deal in such cloth rather than open Government shops for that purpose ;

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I order the Cloth Merchants named below to stock and sell Standard cloth from 10 00 hours on Tuesday 13th day of May 1919, at the price of Annas six (6) Pies nine (9) per yard, a rate which I have satisfied myself will leave a reasonable profit to the seller ;

And further that it shall be deemed a contravention of Martial Law if more than 12 yards are sold to any one purchaser or if any person having purchased such cloth from one of the Merchants referred to re-sells it

I further order each of the said Merchants to report themselves either personally or by representative, to the Textile Assistant to the Director Industries at the Government Central Weave, Old Police Lines Sheranwala Gate Lahore between 07.00 and 11.00 hours on Monday 12th May 1919 with Rs. 103.66 in cash with which to purchase and take delivery of one bale containing about 1308 yards of the said cloth.

NAMES AND ADDRESSES OF MERCHANTS SELECTED FOR THE SALE OF CHINA CLOTH.

[CONTINUED]

Headquarters, Punjab Club,

Time 11.10 hours.

Date 09.05.1919

FRANK JOHNSON,

Lieutenant Colonel

Commanding, Lahore (Civil) Area

No. 41.

WHEREAS by Martial Law Order No. 35 of the 5th May, 1919 I fixed the maximum retail prices of certain vegetables,

AND WHEREAS, I now find that certain of such prices can be still further reduced in the interests of the consumer without being unjust to the producer or seller

NOW, THEREFORE by virtue of the powers vested in me by Martial Law, I order that after 05.00 hours on Saturday, 10th May, 1919, it shall be a contravention of Martial Law, to charge or attempt to charge more than the prices set forth below for the following vegetables, viz —

	Rs. A. P.
Baingan	0 1 0 per seer
Bhindi Tori	0 4 0 Ditto
Karele	0 4 0 Ditto
Onions, dry (other than Karachi)	0 0 9 Ditto
Sag	0 0 9 Ditto
Kadu (Pahari)	0 0 6 each

And with those exceptions all the prices fixed in my said Martial Law Order No. 35 of 5th May, 1919, remain in force until further orders

FRANK JOHNSON, Lieut Col

Headquarter, Punjab Club,

Time 12.45 hours.

Lahore 9th May, 1919

Commanding, Lahore (Civil) Area,

WHEREAS the Amir of Afghanistan has been first take certain in the action against the Government of His Majesty the King Emperor;

AND WHEREAS I deem it desirable to take steps to ascertain the names and addresses of all subjects of the said Amir who may be in the Area under my Command;

NOW THEREFORE by virtue of the powers vested in me under Martial Law I make the following Order

- (1) All Afghan subject shall leave the Area under my Command without my written permission.
- (2) Every Afghan subject (except women and children accompanying husband or parent) now in the Area under my Command shall present himself for registration at the Headquarters of this Area between 09-00 hours to-morrow (Sunday) the 11th day of May 1919, and 17-00 hours on Monday the 12th day of May 1919.
- (3) From and including Tuesday the 13th day of May 1919 it shall be an offence against Martial Law for any person to harbour or assist in any way an Afghan subject not in possession of a Certificate of Registration signed by me or on my behalf.

And I further declare that should any person know of the existence of any unregistered Afghan subject in the Area under my Command, and fail to report such knowledge to me immediately, such person shall be deemed to have contravened Martial Law and be dealt with accordingly.

Headquarters, Panjab Club.
14th 10th May 1919.

FRANK JOHNSON, LIEUT. COL.
Commanding Lahore (Civil) Area

No 43

WHEREAS by Martial Law Order No 15 of 18th April 1919 I warned all people in the Area under my Command to refrain from spreading false inaccurate or exaggerated reports or rumours in connection with the military or political situation

AND WHEREAS I find rumours as false as they are stupid being circulated in the said Area in connection with events now taking place in or on the borders of Afghanistan I deem it desirable to repeat my warning of the 18th April as to the severity of punishment that will be inflicted on any persons inventing, repeating or giving currency to false, inaccurate or stupid rumours, particularly in connection with Afghanistan;

And that it is possible for all to be able to plead that he must listen to such rumours, or even to the occurrence of particular events. I have notice that all communiques issued by the Government are trustworthy and authentic news, and that all such communiques may be taken without any doubt as true and honest.

FRANK JOHNSON, Lieut. Col.,

Her Majesty's, Punjab Club

General Manager (Civil) India

June 16 1919

16/6/1919, 10th May, 1919.

No 44

WHEREAS the various Martial Law Orders I ordered certain action to be taken with a view to restraining the sedition activities of the students of certain Colleges,

AND WHEREAS the Principals of some of the Colleges of Lahore have now reported to me that they have inflicted the following punishments, that is to say —

DYAL SINGH COLLEGE

(a) Expulsion from the College —

(i) Karam Lal	...	.. Fourth year student
(ii) Bansi Ram		.. Third year student
(iii) Lax Dutt		Second year student
(iv) Sulbha Ram		Do
(v) Ram Rattan		First year student.
(vi) Dewan Chand		Do
(vii) Hazari Lal	...	.. Second year student

(a) To rusticate for one year —

(i) Bansi Lal		Fourth year student
(ii) Khazan Chand		Do
(iii) Chiragh Din	..	.. Second year student
(iv) Asa Nand	..	Do.
(v) Dharam Singh	..	.. First year student

(c) To be put back by one year —

(i) Daulat Rai	...	.. Fourth year student.
(ii) Gokal Chand		Do.
(iii) Mohar Chand		.. First year student
(iv) Dina Nath	..	.. Do.
(v) Purshottam Lal		Do
(vi) Priya Lal		Do
(vii) Bulkishan	...	.. Do.
(viii) Guli Chand	..	Do.

(ix) Durga Parhai	First year student
(x) Sant Ram	Do
(xi) Salig Ram	Do
(xii) Bhagwan Das	Do
(xiii) Ishar Das	Do
(xiv) Pralhad Chand	Do

(a) To be suspended for three months :—

(i) Shinghar Singh	First year student
(ii) Kedar Ishwar	Do
(iii) Harnam Lal	Do
(iv) Roop Chand	Do

(c) To be deprived of their Scholarships for three months :—

(i) Dina Nath	First year student.
(ii) Guli Chand	Do

(f) Fined Rs. 20 each —

(i) Bajj Nath	Fourth year student
(ii) Kishan Lal	Do.
(iii) Ishar Das	Do
(iv) Laxman Chand	Do
(v) Ram Nath Sill	Second year student.
(vi) Dina Nath	Do

(g) Fined Rs. 10 each 219 students

(h) To find security of Rs. 25 each 245 students.

(i) All students who failed to appear for examination on the 11th April, 1919, to be declared to have failed in the subjects of such examination.

2. SAKATANA DHARMA COLLEGE.

(a) To find security of Rs. 20 each	18 students.
(b) Rs. 10	53 students
(c) Rs. 5	7 students.

NOTE —The students of this College were also interned for a period in the Fort

3. FORMAN CHRISTIAN COLLEGE

(a) Expelled —

(i) D D Chopra	6th year student
----------------	------------------

(b) Rusticated for one year —

- | | |
|-----------------------|------------------|
| (i) Manzur Hasan Khan | 3rd year student |
| (ii) Mohd Hashim Khan | Do. |

(c) Detained for one year and not allowed to live in any hostel belonging to the College —

- | | |
|----------------|-------------------|
| (i) Sher Singh | 6th year student. |
|----------------|-------------------|

(d) Detained for one year —

- | | |
|-----------------|-------------------|
| (i) Karam Singh | 3rd year student. |
| (ii) Ralla Ram | 4th year student. |

(e) Fined Rs 25 each —

- | | |
|-------------------|-------------------|
| (i) Gupar Mall | 4th year student. |
| (ii) Balbir Singh | Do |

(f) Fined Rs 10 each —

- | | |
|-------------------|------------------|
| (i) Hari Singh | 3rd year student |
| (ii) Munu ud-Din | Do. |
| (iii) H R K Dogra | Do. |

(g) Every resident of a hostel of the College who did not attend the College on the 11th and 12th April without due reason, find Rs 5 each.

4 DAYANAND ANGLO VEDIC COLLEGE

(a) Expulsion (not in future to enter any College/of the University) —

- | | |
|-------------------------|------------------|
| (i) Sita Ram Aggarwal | 3rd year student |
| (ii) Gian Chand Sangari | do. |
| (iii) J S Talwar | do. |
| (iv). Sada Nand | do |
| (v). Gurdas Ram Anand | do |
| (vi) Sojn Dutt | do. |
| (vii) Melu Ram Sehgal | do |
| (viii) Ram Nath | do |
| (ix) Durga Dutt | do |
| (x) Ram Rakha Bawa | do. |

(b) Rustication for one year —

- | | |
|------------------|-------------------|
| (i) Vdya Sagar | 3rd do. |
| (ii) Kundan Lal | 1st do |
| (iii) Surj Mulli | 3rd do. |
| (iv) Achint Ram | do. |
| (v) Chaman Lal | 1st year student. |

(b) To be put back one year —

(i).	Keshori Lal	3rd year student.
(ii).	Dukh Bhanjan Lal	do.
(iii).	Hari Kishore	do.
(iv).	Jagan Nath Deora	do.
(v).	Inder Singh	do.
(vi).	Jamna Das	do.
(vii).	Bashant Lal Nath Bains	do.
(viii).	Haveli Ram	1st year student.
(ix).	Bhagat Ram	do.
(x).	Dhunda Mal	do.
(xi).	Ganesh Das Dhawan	do.
(xii).	Baaheshwar Nath	do.
(xiii).	Munshi Ram	do.
(xiv).	Soni Dutt Sharma	3rd year student.
(xv).	Jamna Das	do.

(c). Will not be permitted to rejoin the College to prepare for any subsequent examination —

(i).	Blum Sen Prashar	2nd year student
(ii).	Ram Prashad	do.
(iii).	Charan Das	4th year student
(iv).	Pindi Das	2nd year student.
(v).	Abnashi Ram	do.
(vi).	Bashan Das Chopra	4th year student

(d). Forfeiture of scholarships and stipends —

(i)	Gian Chand Sangari	3rd year student.
(ii)	Sita Ram Aggarwal	do.
(iii)	Haveli Ram	1st year student.
(iv).	Ram Rakha	do.
(v).	Din Dyal	do.
(vi).	Ram Chand	3rd year student.
(vii)	Shiv Prashad	do.
(viii).	Ram Karn	1st year student.
(ix).	Behari Lal	do.
(x)	Khushi Ram	do.

(f). To deposit security of Rs. 50 each 112 students.

(g) To pay fine of Rs. 10 each 2 students.

AND WHEREAS considering the aforesaid punishments, although very lenient and intended to be sufficient to restrain students in the future from being misled into disloyal and seditious action I direct that adequate disciplinary action having thus

restrictions imposed on certain students by Martial Law Orders
 been taken, all April, 1919, and No 16 of 18th April, 1919, are cancelled from
 No 7 of 16th this date

But in order, however, to minimise the chances of students being led or
 leading others astray, I Order that every student on the roll of a College in Lahore
 shall not reside, without my written permission, in any other place than in the Area
 under my Command and or his registered home.

FRANK JOHNSON, LIEUT COL,

Headquarters, Punjab Club,
 Lahore, 12th May 1919

Commanding, Lahore (Civil) Area

No 45

WHEREAS on the 15th day of April, 1919, in order to minimise the
 work of the Troops and Police and the better to maintain public order and
 safety in the area under my command, by Martial Law Notice No. 1,
 I forbade certain classes of the inhabitants of the said area to leave their
 houses or be in the public streets or roads between 20 00 hours and 05 00
 hours daily,

AND WHEREAS by Martial Law Order No 20 of 21st April, I substituted
 21 00 hours for 20 00 hours laid down in the said Martial Law Order No. 1,

AND WHEREAS orders issued by me under Martial Law having been
 generally obeyed to my satisfaction, I am desirous of still further limiting
 the restriction as I deemed it necessary to impose on the movements of the
 people during the hours of darkness,

— NOW, THEREFORE, I order and direct that subject to the continued good
 conduct of the people, the hours during which the streets, etc, are closed,
 shall be between 22 00 hours and 05 00 hours, and this alteration shall come
 into force at 2 00 hours on 13th day of May, 1919

FRANK JOHNSON, LIEUT. COL,

Headquarters, Punjab Club,
 Lahore, 12th May, 1919.

Commanding, Lahore (Civil) Area.

No 46

WHEREAS by Mutual Law Orders No 36 of 5th May, 1919, and No. 44 of
 12th May, 1919, I have caused to be made known the punishments inflicted by
 the Principals of various Colleges on certain of their students

NOW FURTHER I set forth below detail of the students who have been inflicted by the Principal of certain schools in these under my Command in order that present and future students be warned thereby of the severity with which persons who participate in such occurrences will be dealt with.

1.—GOVERNMENT COLLEGE

(a)—Expulsion—No student to enter any College

- (i) Jivan Lal Gaurha
- (ii) Nand Lal Santhal
- (iii) Nand Lal Dhal
- (iv) Kartar Singh Bhalla
- (v) Jagat Ram Sethi
- (vi) Chaman Lal Khan

1st year student

2nd year student

1

2

3rd year student

4th year student

No student to be taken
for the first year for high school

(b)—Having completed their courses for the first year, either for the same examination or they pass:

- (i) Balwant Lal
- (ii) Amrit Lal
- (iii) Hari Datt
- (iv) Parkash Chandra
- (v) Chuni Lal Navar
- (vi) Kishan Dyal Kapur

2nd year student

3

4th year student

do

do

do

do

1st year student

do

do

do

do

do

1st year student

do

do

do

do

do

do

do

do

do

do

(c)—Suspension for one year —

- (i) Brahma Vallabh
- (ii) Jawahir Singh
- (iii) Sant Singh
- (iv) Kishan Chandra
- (v) Prasad Varma
- (vi) Mehdi Hasan

(d)—Forfeiture of scholarships —

- (i) Hans Raj
- (ii) Sardar Lal Malhotra
- (iii) Vijay Dev
- (iv) Rajendar Nath
- (v) Mohammad Musa Khan
- (vi) Jagat Singh
- (vii) Ajodhya Lal
- (viii) Arjan Dev
- (ix) Desai Raj
- (x) Nazir Ahmad
- (xi) Mohanmad Sharif

do

do

do

do

do

do

do

do

do

do

do

do

(vii)	Hari Chand	First year student
(viii).	Abdul Khaliq	do
(ix).	Kishen Chand	do
(x)	Sardari Lal Jain	do

(c).—Forfeiture of half fee concessions —

(i).	Gopal Das	,	1st year student
(ii).	Sardari Lal		do
(iii).	Dev Singh I ehre		do
(iv).	Hari Chand	,	do
(v).	Bishen Das		do

2 —LAW COLLECT.

(a).—To be put back for one year —

(i).	Guru Das Sami	L. I B. Class
(ii).	Ram Rang Trikhia	do.
(iii).	Sada Lal	do
(iv).	Brij Lal Sriv	F. I L. Class
(v)	Bal Dev	do.
(vi).	Kanad Dev Sondhi	do
(vii)	Ram Saran Sharma	do.

(b) — Fined Rs. 10 each ... 38 students.
 (nearly all of LL B. Class).

c) $\frac{1}{2}$ Fixed Rs. 5- each 58 students
of the LL.B. and F. E. L. Class.

(d)—Fixed Rs 3 each ... 28 students
of the F. E. L. Class

Headquarters, Punjab Club,
Time 11 35 hours
Lahore, 13th May, 1919.

- No 47

WHEREAS I published in Martial Law Order No 38, the Returns rendered to me as to stocks of Wheat held in the area under my Command on the morning of the 7th May, 1919,

AND WHEREAS certain persons, against whom action has been taken, failed to render their returns by the hour named ,

NOW THEREFORE I publish below the Returns received from the following —

[16th number]

FRANK JOHNSON LIEUT.-COL.

Headquarters, Punjab Club

Commanding Lahore (Civil) Area

Time : 14.30 hours,

Lahore 17th May 1919.

No. 48

In accordance with the Notice contained in Martial Law Order No. 39 of 8th May 1919, I publish below the Returns rendered to me as to stocks of Grain in the Area under my Command —

[All the 55 Returns and Expressing Grain aggregating well over 23000 MT.]

FRANK JOHNSON LIEUT. COL.

Headquarters Punjab Club

Commanding Lahore (Civil) Area

Time : 16.10 hours,

Lahore 14th May 1919.

Martial Law Notice

(1). With reference to Martial Law Order No. 34 of 5th May 1919 it is notified for information that Returns are not required of Wheat coming into possession of persons subsequent to 7th May 1919.

(2). It is also notified that there is no intention of commandeering Wheat and that there is no restriction whatever on the amount of wheat which may be held in stock.

(3). Drastic steps are being taken to stamp out the habit of adulterating Milk and other food and all concerned are notified that heavy penalties will invariably be imposed on conviction.

E. C. BARNES MAJOR

HEADQUARTERS, PUNJAB CLUB

for Lieutenant Colonel

Time : 16.30 hours,

Commanding Lahore (Civil) Area

Lahore 14th May, 1919.

No. 49

WHEREAS the behaviour of the people in the Area under my Command renders it possible to modify and/or annul various Martial Law Orders which from time to time I deemed necessary to issue and impose in the interests of order and public safety ;

NOW, THEREFORE, I make the following Orders —

- (1) Martial Law Orders No 6 and 12 of 16th April, 1919, are cancelled from this hour
- (2) Martial Law Order No 1 (2) of 15th April, 1919, and No 45 of 12th May, 1919, are still further modified so that after 22 00 hours on the 16th May, 1919, it shall be lawful to be in the streets and roads at all hours except only those between 22 00 hours and 04 00 hours inclusive.
- (3) Martial Law Order No. 1 (4) of 15th April, 1919, and Section 9 of Proclamation, dated 19th April, 1919, are so modified that the processions and gatherings in connection with *bona fide* religious services, weddings, funerals or circumcision of children, shall be lawful without my written permission, provided always that such processions or gatherings do not exceed 100 persons in all and are not accompanied by any band or music.

In announcing these first relaxations of Martial Law Orders I warn all concerned that these concessions must not be misinterpreted as a sign of the weakening of Martial Law, which will still be applied with all swiftness and severity against those engaged in seditious propaganda or in attempting to aid the King's enemies,

And in particular I warn traders and bunnies that I am determined with all the power vested in me under Martial Law, to protect the people in the Area under my Command in the matter of adulteration of foods, or refusing to sell the necessaries of life at the reasonable prices I have fixed or may hereafter fix

FRANK JOHNSON, LIEUT COL ,
Commanding, Lahore (Civil) Area.

Headquarters, Punjab Club,
Time 16 10 hours
Lahore, 15th May, 1919

No 50.

WHEREAS this is the Mahomedan Festival known as Shabrat when those of that faith usually visit their mosques during the hours of the night

And being desirous that the necessities of Martial Law should interfere as little as possible with the religious exercises of the people in the Area under my Command.

NOW, THEREFORE, I give Notice that during to night, i. e., the night of 15 16th May Mahomedans wishing to visit their mosques may do so at any hour without let or hindrance, notwithstanding any Martial Law Order to the contrary.

But nothing in this Order shall be construed as permitting the opening of the Badshahi Masjid which remains closed pending the receipt of guarantees against its future misuse nor the use of fireworks, nor does it refer to any other period than the night specified

FRANK JOHNSON LIEUT. COL.

Headquarters, Punjab Club

Commanding Lahore (Civil) Area.

Time : 11.25 hours.

Lahore 15th May 1919

No. 51

WHEREAS a complete list of occupiers or owner of all buildings in the Area under my Command is to be prepared ;

NOW THEREFORE by virtue of the power vested in me by Martial Law I issue the following Orders :—

- (1) The entire Area has been divided into 24 blocks
- (2) Each block has been put in charge of a separate *Futwari* to prepare the required list
- (3) It will be the duty of the *Futwari* to give 24 hours previous general notice to the occupiers and owners of the particular part or locality of his block which he proposes to do each day
- (4) It will be the duty of each occupier or owner of the house or area in the locality about which a general notice has been issued to be present in person or by proxy at his place and furnish or cause to be furnished to the *Futwari* on his arrival the following information, *viz* :—
 - (i) His name occupation and full address.
 - (ii) Annual rent of the house or part of the house or of the area occupied by him
 - (iii) If a house or a part of a house or area is occupied by the owner or is occupied free of rent, he will state the annual rental value of the same, having regard to the cost of the building and the rents prevailing in the locality
 - (iv) Furnish any other information necessary for the correct preparation of the required list.

And I warn all concerned that failure to comply with this Order or to furnish wrong information will result in severe punishment under Martial Law

FRANK JOHNSON LIEUT.-COL.,

Headquarters, Punjab Club,

Commanding Lahore (Civil) Area.

Time : 10-20 hours.

Lahore 17th May 1919.

No. 52.

WHEREAS by Martial Law Orders No 35 of 5th May, 1919, and No 41 of 9th May, 1919, I fixed the maximum retail prices of certain vegetables,

AND WHEREAS I now find that certain of such prices can be still further reduced in the interests of the consumer without injustice to either producer or seller,

NOW, THEREFORE, by virtue of the powers vested in me by Martial Law, I order that after 05-00 hours on Monday, 19th May, 1919, it shall be a contravention of Martial Law, to charge or attempt to charge more than the prices set forth below for the following vegetables, *viz* —

Name of Vegetable	Maximum Retail Price.		
	Rs	A	P.
Baingan	0	0	6 per seer
Bhindi Tori	0	3	0 „
Karele	0	2	6 „
Tori (green)	0	1	6 „
Kadu (Ghri)	0	0	3 each
Kadu (Pahri)	0	0	3 „

FRANK JOHNSON, LIEUT-COL.,

Commanding, Lahore (Civil) Area.

Headquarters, Punjab Club,

Time 12 25 hours.

Lahore, 17th May, 1919

No 53

WHEREAS, owing to the misuse of the BADSHAHI MOSQUE by Mahomedans and Hindus as a meeting-place for the furtherance of seditious agitation, a misuse which constituted a danger to the peace, I by virtue not only of the powers conferred on me by Martial Law, but also by the right to deny access to the said Mosque vested for ever in the Commandant of Lahore on the 10th day of June 1856, when the said Mosque was on certain conditions, given back to the Mahomedan community, deemed it necessary to close and did so close and deny access to the said Mosque,

AND WHEREAS I have now received from a Committee of leading Mahomedans satisfactory guarantees and assurances against the future misuse of the said Mosque,

NOW, THEREFORE, I order that from the date hereof, all Mahomedans shall have access to the said BADSHAHI MASJID without let or hindrance and shall continue to have the free and undisturbed use of the said Mosque on original conditions

FRANK JOHNSON, LIEUT-COL.,

Commanding, Lahore (Civil) Area.

Headquarters, Punjab Club,

Time 13 45 hours

Lahore, 20th May, 1919

NOTICE

It is notified for the information of all concerned that the Office of the Liaison (Civil) Area has been transferred to Faletti's Hotel (Telephone No. 92).

FRANK JOHNSON, LIEUT. COL.

Commanding Lahore (Civil) Area

No. 54

WHEREAS it has been brought to my notice that excessive waste of water is taking place both in the City and Civil Station of Lahore where owing to the present disturbances, the Government of the Punjab and many troops have to reside

AND WHEREAS I have satisfied myself (a) that the four million gallons of water per diem now being supplied are more than sufficient for the needs of all and (b) that the present supply cannot be increased at present;

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I ORDER THAT after 12-00 hours to-morrow the 15th day of May 1919, it shall be deemed a contravention of Martial Law for any person or persons to waste or misuse the pipe supply of water

FRANK JOHNSON, LIEUT. COL.

Headquarters, Faletti's Hotel

Commanding Lahore (Civil) Area

Time: 13.10 hours.

Lahore 23rd May 1919

No. 55.

WHEREAS I have received information that certain persons have insisted on being driven in Tongas retained for Military Services, and in some cases have actually assaulted the drivers who rightly refused to accept such persons as "Lares";

AND WHEREAS all such Tongas in Military Services can be readily distinguished by the letter and number painted on the dash board

NOW THEREFORE, by virtue of the power vested in me under Martial Law I declare that it shall be a contravention of such Law for any person to induce by threats, bribes or otherwise, any driver of Tonga in Military employ to ply for hire or neglect the work which he may be ordered to perform

FRANK JOHNSON, LIEUT. COL.

Headquarters, Faletti's Hotel

Commanding Lahore (Civil) Area

Time 15.45 hours.

Lahore 23rd May 1919.

No. 56.

WHEREAS the Hindu Festival known as Bhadrakali, takes place on Sunday next, the 25th day of May, 1919, when people of the Hindu faith usually gather together for the purpose of worship at the Bhadrakali Temple in Lahore City,

And being desirous that the necessities of Martial Law should interfere as little as possible with the religious exercises of the people in the Area under my Command,

NOW, THEREFORE, I give Notice that during the night of Sunday next, i.e., the night of 25th—26th May 1919, the inhabitants of this Area may be out in the streets until 23 00 hours

But nothing in this Order shall be construed as permitting the use of fireworks, nor does it refer to any other period than the night specified

FRANK JOHNSON, LIEUT. COL.,

Headquarters, Faletti's Hotel

Commanding, Lahore (Civil) Area.

Time 07 15 hours.

Lahore, 24th May, 1919

No. 57.

WHEREAS His Honour the Lieutenant Governor Sir Michael O'Dwyer, K.C.I.E., K.C.S.I., has been pleased to express his wish that any restrictions imposed by the necessities of Martial Law, which might interfere with the religious observances of the people in the Area under my Command, may be reduced to the minimum demanded by the Military situation

AND WHEREAS the representatives of the Mohamedan community have petitioned me that from the commencement of the RAMZAN, the "Curfew" hours may be reduced to from 23 00 hours to 02 30 hours

NOW, THEREFORE, seeing the excellent manner in which all Martial Law Orders have been obeyed in the Area under my Command, I make the following order, that is to say —

With effect from 23 00 hours on Tuesday, the 27th day of May, 1919, until further Notice, Martial Law Order No. 1 (1) of the 15th April, 1919, and all subsequent modifications of such Order, are cancelled, and it shall only be unlawful for the persons referred to in such Orders to be outside their houses or compounds between 23 59 hours (Midnight) and 02 00 hours

FRANK JOHNSON, LIEUT. COL.,

Headquarters, Faletti's Hotel

Commanding, Lahore (Civil) Area,

Time 07 30 hours

Lahore, 24th May, 1919

No. 58

WHEREAS by Martial Law Order No. 29 dated 25th April 1919 I fixed the maximum retail price of ATTA at $6\frac{1}{2}$ seers per rupee, and by Martial Law Order No. 32 dated 29th April 1919, the maximum retail price of WHEAT at $7\frac{1}{2}$ seers per rupee;

AND WHEREAS the prices of the said commodities have risen since the above mentioned Orders were issued;

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I order that from and after 14-00 hours on the 30th day of May 1919,

(a) not less than $6\frac{1}{4}$ (six and a quarter) seers of ATTA shall be supplied for a Rupee and

(b) not less than 7 (seven) seers of WHEAT shall be supplied for a Rupee.

And I warn all concerned that the other provisions of Martial Law Order Nos. 29 and 32 are still applicable and in force, and that any contravention thereof or of this Order will be dealt with summarily under Martial Law

FRANK JOHNSON LIEUT.-COL.

Headquarters, Faletti's Hotel.

Commanding Lahore (Civil) Area.

Time: 11 55 hours.

Lahore 25th May 1919.

No. 59

WHEREAS the Mahomedan Mela known as FAR LA MELA takes place on the 14th and 15th June, 1919, when certain Mahomedans gather together at the Tomb of JAHANGIR at Shahdara, near Lahore;

And being desirous that the necessities of Martial Law should interfere as little as possible with such Melas;

NOW THEREFORE, I give notice that for the period of the two days mentioned above, persons may gather together at the said JAHANGIR'S TOMB according to custom, and such persons attending the said Mela are permitted to be out of their houses during prohibited hours of the two nights in question, i.e., the nights of the 14th 15th and 15th 16th June 1919

W J W BRACKENBURY LIEUT. COL.

Headquarters, Faletti's Hotel

Commanding Lahore (Civil) Area

Time: 12 30 hours.

Lahore 21st May 1919.

Lahore, 31st June, 1919

No. 62

WHEREAS it has been represented to me that the wholesale price charged for Khewra Salt is exorbitant and unjustifiable ;

AND WHEREAS I find that as set forth in Martial Law Order No 32, dated 29th April 1919 Khewra Salt can be laid down in this Area at an inclusive cost of Rs. 1 12-0 per maund ;

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I order that from 18 00 hours to-morrow Wednesday 4th June 1919, salt other than imported table salt shall be supplied to any purchaser of ten maunds or over at any one time and under any one transaction at a price not exceeding Rs. 2-4-0 per maund

And I warn all concerned that all those who are to-day selling salt wholesale shall continue to do so at the new price and under the new conditions ;

And I further warn all concerned that Martial Law Order No. 32 dated 29th April, 1919 in so far as it refers to salt remains unaffected by this Order except in regard to the purchase price of quantities of salt ten maunds or more in weight.

W J W BRACKENBURY LIEUT COL

Headquarters Faletti's Hotel

Commanding Lahore (Civil) Area

Time 16-15 hours

Lahore 3rd June 1919

1/2

No 63.

WHEREAS by Martial Law Order No. 24 dated 23rd April, 1919 I took over a number of electric fans and lights

AND WHEREAS I now deem it expedient to return them (or their value) to their owners ;

NOW THEREFORE, by virtue of the powers vested in me by Martial Law I order all such owners to present themselves at Faletti's Hotel, Lahore, between the hours of 09-00 and 11-00 on Monday the 9th June, 1919, to receive back their electric lights and fans (or their value)

And I warn all owners that should they fail, without sufficient reason to so present themselves at the place and time mentioned in this Order the electric lights and fans will remain in my charge at owners risk and I will not be further responsible.

W J W BRACKENBURY LIEUT COL

Headquarters, Faletti's Hotel

Commanding Lahore (Civil) Area

Time : 12 10 hour

Lahore, 6th June 1919.

No 64

WHEREAS by Martial Law Orders Nos 17 21 22 and 23 I ordered all pedal driven bicycles to be delivered over to me,

AND WHEREAS I now deem it expedient to return all bicycles to their owners

NOW, THEREFORE by virtue of the powers vested in me by Martial Law I order all owners to present themselves at the Cinema, McLeod Road, on any day between the hours of 07 00 and 19 00 but before noon on the 9th June 1919 to receive their bicycles

And I warn all owners that bicycles not claimed before noon on the 9th June 1919, will remain in my charge but at owners risk, and I will not be further responsible for the same

Unless claimed within a further period of 48 hours i.e., before noon on the 11th June, 1919, the bicycles will be handed over to the Superintendent of Police

W I W BRACKENBURY, I.M.T., Col.,
Headquarters, Faletti's Hotel, *Commanding, Lahore (Civil) Area.*
Time 12 20 hours
Lahore, 6th June, 1919

NOTICE.

Notice is hereby given that all temporary owners of commandeered bicycles allotted to them by the military authorities are to return same before 10-00 hours on Monday, 9th June, to the N C O in charge of bicycles Empire Cinema, Lahore

W D. BACON, Lieutenant,
Headquarters, Faletti's Hotel, *Staff Officer,*
Lahore, 6th June, 1919. *Lahore (Civil) Area*

G—MISCELLANEOUS

(11)—Government of India Resolution on the Situation.

The following resolution of the Government of India, in the Home Department was published in a *Gazette of India Extraordinary* dated April 14th, 1919;—

The present situation arising out of the agitation against the Anarchical and Revolutionary Crimes Act (commonly called the Rowlatt Act) renders it imperative on the Governor General in Council to define the attitude of Government on the subject of that agitation and the serious disorders which have resulted therefrom and to indicate the nature of the concerted action which it is now necessary to take for the preservation of law and order.

When the Bill was under discussion its opponents publicly stated that if it passed into law a campaign of agitation against it on a scale hitherto unattained would be organised throughout India and a section of them indicated that they would support that campaign by resort to what is known as passive resistance. No one cognizant of the conditions of India could have been ignorant at the time of the dangers of initiating a widespread movement of this nature. They were clearly pointed out by many public men of moderate views and the representatives of Government did not fail during the debates on the Bill to emphasise the serious consequences to the public peace which would follow from an agitation such as was then threatened. The warnings were unheeded, and to the agitation which has succeeded the passing of the Act must be directly attributed the open breaches of the public peace, the defiance of authority and the criminal attacks on life and property which have lately been witnessed in certain parts of India.

The agitation has followed a double line of action namely direct criticism of the Act by means of public speeches and publications and the initiation of the threatened movement of passive resistance. The latter movement was ushered in by a demonstration consisting of the observance of a day of fasting and the closing of the shops and places of business. Such a demonstration was not in itself illegal; but there is ample evidence to prove that in more than one place those locally responsible for its organisation overstepped the limits of lawful persuasion and resorted to direct interference with the business of many who were not interested in the movement and to forcible obstruction of the traffic in the public streets.

But the indirect consequences of this aspect of the agitation have been far more mischievous in that it promoted a sense of unrest and of excitement which was bound to react and has reacted on the more ignorant and unfrankable section of the population. The campaign has involved in many quarters

the use of the most flagrant misrepresentations regarding the character of the Act. It is clear that large number of ignorant people have been deliberately led to believe that the new law gives the police unfettered authority to interfere with public meetings, not only of a political but of a religious and social nature, and to arrest summarily persons engaged in political work, and that it empowers the executive authorities to imprison without trial any person criticising the action of Government.

The Governor General in Council thinks it necessary to reiterate here the following salient facts concerning this Act. It is specially directed against revolutionary and anarchical crime and can only be brought into force in any locality when it has been proved to the satisfaction of the Governor General in Council that such crime or movements tending to such crime exist. It has not, so far, been brought into operation in any part of India. Its first part merely provides for speedy trial of certain grave offences. In the second and third parts provision is made for preventive action (similar to but much more restricted in scope than that now provided by the rules under the Defence of India Act) against persons suspected of revolutionary or anarchical crime. Action cannot, however, be taken against any individual without the previous order of the local Government. There is nothing, therefore, which can justify the widespread rumours, for which the promoters of the agitation must be held responsible, that unusual or even extended powers have been given to the police, nor is there anything which need cause fear or apprehension to any person other than the revolutionary or the anarchist. Not only do the terms of the Act definitely exclude its use in any case not falling within the definition of anarchical or revolutionary conspiracy, but Government has given the most categorical pledge (which the Governor General in Council takes this opportunity to reiterate) that the tenor and intention of the Act will be scrupulously safeguarded should occasion arise to put it into operation.

The Governor General in Council considers it unnecessary to detail here the deplorable occurrences resulting from the agitation against this Act. The offences which have occurred at Delhi, Calcutta, Bombay and Lahore have one common feature—the unprovoked attempt of violent and unruly mobs to hamper or obstruct those charged with the duty of maintaining order in public places. At Amritsar and Ahmedabad they have taken a far graver form—a murderous attack on defenceless individuals and a wholesale and wanton destruction of private and public property. The Governor General in Council thinks it right to state that at Amritsar the loss of life might have been greater but for the protection afforded by unofficial Indians to those who were threatened by the mob and he takes this opportunity of expressing the gratitude of Government for this conspicuous example of loyalty and humane feeling.

It remains for the Governor General in Council to assert in the clearest manner the intention of Government to prevent by all means, however drastic,

the recurrence of these excesses. He will not hesitate to employ the ample military resources at his disposal to suppress organised outrage, rioting or concerted opposition to the maintenance of law and order and has already sanctioned the application of the State Offences Regulation 1804 in a modified form to certain districts of the Punjab. He will further use all preventive measures provided by the Statutes to check disorder at its source and in Regulation 3 of 1818, and the corresponding regulations applicable to Bombay and Madras and in the Rules under the Defence of India Act he has powers which will enable him to deal effectually with those who promote disorder. He has sanctioned the extension of the provisions of the Seditious Meetings Act to the districts of Lahore and Amritsar in the Punjab and will authorise a similar extension to other areas in which local Governments see reason to require it. The Police Act of 1881 enables a local Government to quarter additional police on any locality which is guilty of organised offences against the public peace at the charge of the inhabitants and to levy from the latter compensation for those who have suffered from injury to their property. The Governor General in Council will advise local Governments to make a free use of these provisions where necessary.

The Governor General in Council feels that many of those who inaugurated this agitation must regret the lamentable consequences which have ensued—the loss of life and property and damage to the reputation of India. He now appeals to all loyal subjects of the Crown and to all those who have an interest in the maintenance of law and the protection of property both to dissociate themselves publicly from the movement and to exert themselves in quelling unrest and preventing disorder. To all those who render such assistance to the cause of the public and the State and to those servants of Government who are charged with the onerous responsibility of suppressing excesses against public peace and tranquility the Governor General in Council extends the fullest assurance of countenance and support.

(2)—Proclamation by Lieutenant Governor

In view of the persistence of false rumours as to the acts and policy of Government spread by evil minded persons in order to create alarm and hostility to Government among the ignorant and credulous, prompt measures must be taken by all officials of Government and by all law abiding and respectable persons to contradict such rumours. People can be assured on the following points among others —

- (1) Government has no intention of interfering in any way with the customs of the people's regards births, deaths, marriages or in any other respects, nor is it in contemplation to levy any fees on these occasions.

(15) Martial Law will not be extended to any district in which there is no disorder. But if people listen to false rumours now contradicted authoritatively and rise in rebellion and disorder they must expect to find Martial Law applied to them.

(16). People who spread or who repeat false rumours should not be listened to, but should be arrested and should be made over to those in authority.

(17) People should remember how in the past, and especially during the war they have been deceived by false rumours. The people of the Punjab are now learning how useless these rumours have been. Order has been restored almost everywhere by the prompt action of the troops—British and Indian—whom the mischief makers attempted to malign, and by the loyal co-operation of the great mass of the rural population. Existing precautions must however be retained at least till all criminals are brought to justice. For this purpose tribunals are now sitting. The Lieutenant Governor counts on the assistance of all loyal citizens in restoring the good name of the province, which has been sullied by recent events in certain districts.

(18) Finally he assures them that there has been no change whatever in the policy of the Sikar which is now and always to protect the peaceable and to punish criminals who disturb the peace. All persons should therefore go about their lawful business as usual and should rest assured that they are under the protection of the King-Emperor.

M F O DWYER

Lahore April 26, 1919.

Lieutenant Governor of the Punjab.

(3)—The land of *Salaaming*

Military Officers and British soldiers were very particular to be *properly* saluted by all who came across them during the Martial Law days. Those who did not salute them or did so in a manner which did not satisfy the soldiers and officers were flogged or beaten. The following is a specimen of the orders issued on the subject —

NOTICE No. 2 (LYALLPUR).

Whereas it has come to my notice that certain inhabitants of the Lyallpur district are habitually exhibiting a lack of respect for Gazetted European or Civil and Military Officers of His Majesty's Services, thereby falling to maintain the dignity of the Government, I hereby order that the inhabitants of the Lyallpur district shall accord to all such officers whenever met the salutation usually accorded to Indian gentlemen of high social position in accordance with the custom of India.

That is to say, persons riding on animals or on or in wheeled conveyances will alight, persons carrying open and raised umbrellas shall lower them, and all persons shall salute or 'salāam' with the hand.

C. G. HODGSON, LIEUT-COL.,

24th April 1919.

Area Officer, Lyallpur

(4)—Arrest Without Warrant.

It is notified that in exercise of the powers conferred by Rule 12-AA of the Defence of India (Consolidation) Rules, 1915, the Lieutenant-Governor is pleased to authorize all District Magistrates and Superintendents of Police to arrest without warrant any person against whom a reasonable suspicion exists that he is promoting or assisting to promote rebellion against the authority of the Government

—C. & M. G., May, 11, 1919

(5)—Ban on Lawyers.

The following proclamation has been issued by Major-General Sir W. G. L. Beynon, K C I E, C B, D.S O, Commanding 16th Indian Division —Notice is hereby given to all whom it may concern that legal practitioners, whose ordinary place of business is outside the Punjab, will not be allowed to enter the Martial Law area included in the limits of the 16th Indian Division, without the permission of the Administrator of Martial Law. A similar proclamation has been issued by Major General Sir C. M. Dobell, K C B, C M G., D S O, Commanding the 2nd (Rawalpindi) Division, with reference to the Martial Law area included in the limits of the 2nd Division —C. & M. G. May, 17, 1919.

H—WITHDRAWAL OF MARTIAL LAW

(I)

The following order was issued by the Government of India, Home Department on May 28 1919 —

ORDER

In exercise of the power conferred by section 2 of the Bengal State Officers Regulation 1804 the Governor General in Council is pleased to cancel the orders of the Government of India in the Home Department dated the 13th of April 1919, the 15th of April 1919 the 16th of April 1919 and the 22nd of April 1919, which were published with the notification of the Punjab Government Nos 11877 11878, 11879, and 11880 dated the 1st May 1919, suspending the functions of the ordinary criminal courts of judicature and establishing Martial Law within the districts of Lahore Amritsar Gujranwala and Gujrat in the province of the Punjab, except in so far as the said orders apply to the areas specified in the second column of the following table —

District	Area.
Lahore	(1) The Lahore Civil Area as defined in Punjab Government Notification, Home (Military), No 10697 dated the 20th of April 1919 (2) The Lahore Cantonment (3) The Kasur Municipality (4) All Railway land
Amritsar	(1) Amritsar Municipality (2) Amritsar Cantonment. (3) The portion of Mauza Amritsar not included in (1) and (2) (4) Mauza Kot Sarvid Mahmud (5) All Railway lands
Gujranwala	(1) Gujranwala Municipality (2) Wazirabad Municipality (3) Akalgarh Notified Area (4) Ramnagar Notified Area. (5) Hafizabad Notified Area. (6) Sangla Notified Area. (7) Chuharkana Mandi Notified Area. (8) All Railway lands.
Gujrat	(1) All Railway lands.

The following order was issued by the Government of India, Home Department (Political,) on the 9th of June, 1919 —

ORDER

In exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, and in continuation of the Order passed on the 28th of May 1919, the Governor General in Council is pleased to cancel the orders of the Government of India in the Home Department, dated the 13th of April 1919, the 15th of April 1919 and the 22nd of April 1919, which were published with notifications of the Punjab Government Nos 11877, 11878, 11880, 11881 and 11882, dated the 1st May 1919, suspending the functions of the ordinary criminal courts of judicature and establishing Martial Law within the districts of Lahore, Amritsar, Gujranwala, Gujrat and Lyallpur, in the Province of the Punjab, in so far as the said orders apply to the areas specified in the second column of following table and from the date and time mentioned in the third column of the same.

Provided that nothing in this Order shall apply to any railway lands situated in the areas so specified

District	Area	Time.
Lahore	1 The Lahore Civil area as defined in the Punjab Government Notification Home (Military) No 10657, dated the 20th April 1919.	Wednesday, the 11th June 1919 at 12 midnight.
	2 The Lahore Cantonment	Ditto ditto.
	3 The Kasur Municipality	Monday, the 9th June 1919, at 12 midnight.
Amritsar	1. The Amritsar Municipality	Ditto ditto
	2 Amritsar Cantonment	Ditto ditto
	3. The portion of Mauza Amritsar not included in (1) and (2)	Ditto ditto
	4 Mauza Kot Saiyid Mahmud	Ditto ditto
Gujranwala	1 Gujranwala Municipality	Ditto ditto.
	2 Wazirabad Municipality	Ditto ditto
	3. Akalgarh Notified Area	Ditto ditto
	4 Ramnagar Notified Area	Ditto ditto.
	5 Hafizabad Notified Area	Ditto ditto.
	6. Sangla Notified Area	Ditto ditto.
	7. Chuhakana Notified Area	Ditto ditto
Lyallpur	The whole district	

(3)

(Government of India Order No 1816 Home dated Simla August 25 1919)

In exercise of the powers conferred by section 2 of the Bengal State Offences Regulation 1804 and in continuation of the Orders passed on the 28th of May 1919, and the 9th June 1919 the Governor-General in Council is pleased to cancel the orders of the Government of India in the Home Department, dated the 13th April 1919, the 15th April 1919 the 19th April 1919 and the 22nd April, 1919, which were published with the notifications of the Punjab Government Nos. 11877 11878 11879, 11880, 11881 11882, dated the 1st May 1919 suspending the functions of the ordinary criminal courts of judicature and establishing martial law within the districts of Lahore Amritsar Gujranwala, Gujrat and Lyallpur in so far as the said orders apply to the railway lands situated within those districts



APPENDIX II.

Judgments of Martial Law Commissions.*

"In England, the getting up a false case against an innocent man is a comparatively rare thing. In India, it may almost be called one of the customs of the country. If you want to spite your enemy, or to revenge some injury to yourself or your family, one of the most ordinary means of doing it is to bring a false charge. There are always professional witnesses to be had, who would join in such a conspiracy for the sake of a few annas, and it sometimes happens, that the police themselves are engaged as the chief actors in making these abominable charges"——The Right Hon Sir Richard Garth, Q C., Late Chief Justice of Bengal.

[Under section 2 (2) of the Martial Law Ordinance, 1919, the Lieutenant-Governor of the Punjab appointed the following four commissions for the purpose of holding trials under section 2 (1) of the said Ordinance —(1) The Hon'ble Mr Justice Leslie Jones—*President*, Mr M H Harrison, I C S, District and Sessions Judge, S Din Muhammad, Extra Assistant Commissioner. (2) Lieutenant-Colonel A A Irvine C I E, District and Sessions Judge *President*, Mr. F. W. Kennaway, District and Sessions Judge, Mr I C. Lall (3) Mr. N H Prenter, I C S., District and Sessions Judge,—*President*, Mr S S Harris, formerly District and Sessions Judge, Major P W Elliott, 20th D C O Infantry (4) The Hon'ble Mr Justice A B Broadway,—*President*, Mr A H Brasher, I C S, District and Sessions Judge, Khan Bahadur Sheikh Rahim Bakhsh. These Commissions dealt with 114 cases and the number of persons tried by them was 853, of whom 581 were convicted]

* Schedules annexed to the judgments have been omitted, but details of sentences passed by Commissions and the reductions made in them by the Government may be ascertained from *Supplement I* at the end of the book

1.—BADSHAHI MOSQUE CASE (LAHORE).

(Mr Justice Leslie Jones Commission)

The evidence for the defence is worthless. Judicial notice is taken of the fact that there was already a state of rebellion in existence on the 12th of April. On that date a meeting with political objects was held in the Badshahi Mosque, Lahore. It was to be addressed by leading Hindus. Many Hindus were present and many people armed with sticks. Maulvi Abdul Hai having recognised Ch Ali Gauhar a C. I. D. Inspector who was present in plain clothes, made an inflammatory speech against the C. I. D. in general saying that no progress with their objects was possible until the C. I. D. were eliminated and pointed out Ali Gauhar as an object of immediate attack. M. Abdul Hai and the other accused then set upon Ali Gauhar who was beaten with sticks on the body. His assailants had him at their mercy but did not kill him. Followed by the mob he was chased to his house where he shut himself in. There were shouts of "burn the house" and the door was entered but the mob did not proceed to extremes. Ali Gauhar's *pagri* was afterward burnt in the mosque.

Having regard to the state of rebellion which was in existence the Court hold that in the circumstances the attack on Ali Gauhar because he was an official of the C. I. D. was an overt act of waging war (see the judgment in the Supplementary Lahore Conspiracy case). There was double object of punishing a C. I. D. official as such and for securing freedom for seditious object. Abdul Hai is acquitted on the charge under section 302 I. P. C. because the interpretation which he intended to be put on his words is open to question. All the accused are convicted and sentenced as shown in the annexed schedule to transportation for life and forfeiture of their property that being the minimum sentence admissible by law.

Accused No. 1 Abdul Hai was primarily responsible and it is clear that he has tampered with students. Of the other accused Bashir Ahmad (No. 2) was in close attendance upon Abdul Hai and it was Bhagat Ram who burnt Ali Gauhar's *pagri* in the mosque. Labhu Ram (No. 6) is a man of some education who has been to England. At the other end of the scale are two young men Muni Lal and Feroz Din aged 21 and 18 respectively. The Court recommend the question of sentences in respect of the prisoners other than Abdul Hai (No. 1) for the consideration of Government.

2.—CROWN *VERSUS* BALWANT SINGH (LAHORE)

(Mr Justice Leslie-Jones Commission)

The accused Balwant Singh a Ramdasia Sikh is now a khalasi in the 24th N. W. R. Rifles. On the evening of the 11th of April 1919 he shouted in the Badshahi Mosque a false cry that Indian regiment had mutinied in Lahore Cantonment and were marching on Amritsar and Lahore. He also stated that they had killed about 200-250 British soldiers and that he himself had killed

six. He claimed to be a soldier and was dressed as one. He was garlanded and carried in triumph to the pulpit of the mosque, where he was called upon to make a speech. This he was unable to do and he shortly afterwards disappeared.

The Court hold that he committed an offence under section 121, C. I. P. C.

The offence is of a most serious character, but the prisoner is a man of no position or influence and as he did not attempt to translate words into action and the only advice he gave was to go and meet persons who were not coming he is sentenced as in the annexed schedule.

3—DANDA FAUJ CASE (LAHORE).

(Mr Justice Leslie Jones Commission)

The evidence for the defence as to facts is worthless.

Chanan Din, No. 1, organised and led a band which called itself the "Dandi Fauj," and armed with sticks paraded the streets of Lahore on the evening of the 11th and the morning of 12th April, 1921, at the time when the state of rebellion was already in existence. They marched two deep carrying their sticks as if they were rifles at the slope or trail. At constant halts, they knelt, by numbers, as if in a firing position. On numerous occasions Chanan Din made inflammatory speeches proclaiming that he and his band were rebels and looked, not to His Majesty the King, but to Germany, Turkey and Kabul as their suzerains. He invoked the assistance of God and of these powers to overthrow the British Government. He also made reference to the Rowlatt Bill.

Chanan Din's speeches were applauded by the mob, and the Fauj, as it passed along, was joined by recruits who were supplied with sticks. One of the persons, who, knowing the assembly to be unlawful, supplied sticks, was Sita Ram, No. 7. *No real violence was attempted or committed.*

The evidence against Sham Das, No. 8, who was charged with the same action as that of Sita Ram, is insufficient, and he is acquitted.

Chanan Din, No. 1, the principal offender, has already been convicted in the case of Crown v. Abdul Haq, etc. Of the other accused Qamar Din and Prem Narain, Nos. 2 and 3, were the most prominent.

Lal Din, No. 5, is given the benefit of previous loyal conduct.

Bashir, No. 4, is a youth of only 16 years. The sentences are as in the schedule annexed.

4—EXTORTION CASE (LAHORE) (Mr Justice Leslie Jones Commission)

Balaji Shah and his son Ram Lal are rich money lenders who closed their establishment during the *kutab*. Khuda Bakhsh Sub-Inspector (No 1) reported on the 20th April that Balaji Shah was encouraging the *kartal*. Next day Ram Lal was called by Ahmad Din (No 2) that Khuda Bakhsh had a warrant against Balaji Shah which could be suppressed on payment. Ram Lal reported the matter and Munsif Ali Lal Samad Khan a Magistrate, was present in concealment at a meeting between the money lender and Ahmad Din which took place at 7 p.m. It was arranged that Rs 300 should be paid next day to Khuda Bakhsh. The following day Ram Lal visited Khuda Bakhsh who sent Ahmad Din and Allah Din (No 3) with him to collect the money at Balaji Shah's house where another Magistrate Sheikh Kalum Bakhsh was in concealment. The Magistrate arrested Ahmad Din and Allah Din as soon as the money was paid.

There is no evidence to justify the conviction of Allah Din who acted in ignorance under the orders of Khuda Bakhsh. He is therefore acquitted.

The facts against Khuda Bakhsh are clear and Ahmad Din (No. 2) was in his full confidence.

Khuda Bakhsh is not guilty under section 384, I.P.C. as extortion was not complete, and on that charge he is acquitted, but both he and Ahmad Din are found guilty under other charges framed against them and are sentenced as in the schedule annexed.

5—KASUR CASE (Lieut. Col. Irvine's Commission)

The 15 accused before us are charged under sections 121, 148, 302, 149, 326-149 I.P.C. On April 12th at Kasur a mob, excited by speeches addressed to them on that and the previous day invaded and wrecked the railway station, attacked an in-coming train, murdered two warrant officers (Master Gunner Mallett and Conductor Selby), assaulted and injured two officers (Capt. Limby R.E. and Lieut. Munro of the XVII Royal Regiment) and Corporals Battison and Gringham of the Queen's Regiment, assaulted Mr and Mrs Sherbourne of the Railway Department, all of whom were travelling in the train, burnt the Post Office and Munsif's Court, attacked the Tahsil and were finally dispersed by fire from the police.

The speakers who incited the outbreak do not appear to be before us, but we note the sinister feature that the violence of the mob was directed against the wearers of His Majesty's uniform, and against the property of Government.

We have taken judicial notice of and have not required evidence on, the existence of a state of insurrection at Kasur on April 12.

After careful consideration of all the evidence we have acquitted Gian Das, accused No. 15, and have convicted each of the remaining accused of an offence under section 121, I P C., namely the offence of waging war against the King

We sentence them as under —

To death —Chuni Lal No 1, Bir Singh No 2, Budha, No 3, Gaman, No. 4, Daulat Khan, No 6, Labhu, No 7, Charan Das, No 8, Sohni No 9, Bulandi, No 10, Kamal Din, No 12; and Jamal Din, No 13. (eleven in all)

Bir Singh, No 2, Gaman, No 4, Daulat Khan, No 6, Labhu, No 7, Bulandi, No 10, and Jamal Din, No 13, were wounded by the fire of the police. Jamal Din is identified as having been with the mob from the beginning and the rest were prominent in the commission of the outrages. Budha, No 3, was one of the leaders, and Charan Das, No 8, and Sohni, No 9, were conspicuous in the attack on Capt Lamba and Lieut Munro

Chuni Lal, accused No 1, and Kamal Din, accused No 12 were among the leaders and, so far as the actual offence of waging war is concerned, nothing less than the capital sentence would be justified in the case of each of these accused. They were, however, prevailed upon to spare Mr and Mrs Sherbourne and their children, and eventually even assisted them to escape to a place of safety. For this reason and also on the ground of their youth we append to the sentences on Chuni Lal and Kamal Din a recommendation to mercy

To transportation for life —Jowala, No 5, Hira, No 11, Bura, No 14

None of these three appears to have taken a very prominent part and Jowala and Bura are youths of 19 and 18 years of age respectively; we have, therefore, refrained from inflicting the capital sentence upon them. In the case of all the accused who have been convicted we direct the forfeiture of such property liable to forfeiture as each was possessed of at the time of the commission of the offence. We have considered it unnecessary to record findings upon the other charges against the convicts

We commend to the notice of Government the conduct of Mr Khair Din, Examiner of accounts, to whose intervention and protection the escape of Mr and Mrs Sherbourne and their children was due.

6 —NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Ramzan and 3 others.

(LIEUT. COL IRVINE'S COMMISSION)

On April the 17th at 3 30 p m, the police, acting on information received, raided a house at Amritsar, and found the accused, who are Kashmiris and live together all in one room, in possession of a quantity of piece-goods and cotton which have been proved to be the property of the National Bank, and which had been buried under the earthen floor of the room. They were at once arrested. There is no

defence for the defence which is a mere denial of the charge in each case. We register a conviction against each of the accused under section 412, I P C. We sentence Razzan and Muliamala to seven years rigorous imprisonment each, while Gullar and Ahmad may on account of their youth undergo the lesser sentence of five years rigorous imprisonment each.

7.—NATIONAL BANK LOOT CASE (AMRITSAR).

Crown vs Ghafar Bat and 3 others
(LIEUT. COL. IRVINE'S COMMISSION).

On April the 17th at 4 p.m. the police, acting on information received, raided a house at Amritsar and found the accused who are Kashmiris and live together in one house in possession of a quantity of piece-goods and yarn, which have been proved to be the property of the National Bank. They were at once arrested. There is no evidence for the defence of accused No. 1 to 3, who merely deny the charge in each case.

We register a conviction against each of the accused under Section 412, I P C., and sentence them to seven years rigorous imprisonment each.

Judgment pronounced.

The property found may be made over to a properly accredited representative of the National Bank.

8.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown vs Vanshal and 9 others
(LIEUT. COL. IRVINE'S COMMISSION).

On April 17th at 2 45 p.m. the police, acting on information received, raided a house in Amritsar and found the accused in possession of a quantity of piece-goods, proved to have been the property of the National Bank; they were at once arrested. The defence is absolutely worthless. Each accused has been sentenced to seven years rigorous imprisonment, except Khalik accused No. 2 who on account of his youth (he being about 17 years of age) has been sentenced to five years rigorous imprisonment only. The convictions have been registered under section 412, I P C. The property found to be made over to a properly accredited representative of the National Bank.

9.—NATIONAL BANK LOOT CASE (AMRITSAR).

Crown versus Kaman and 15 others
(LIEUT. COL. IRVINE'S COMMISSION).

On April the 17th at 2 P.M. the police, acting on information received, raided a house reputed to be a gambling den in Amritsar and found the accused all in one room in possession of a quantity of piece-goods which have been proved to be the property of the National Bank and which they were apparently in the act of dividing. They were at once arrested. The defence is absolutely worthless.

Abdu (referred No. 6) says that he had come from Dera Ghazi Khan on April the 16th, and was merely in the town by chance. He describes himself as a member of Dera Ghazi Khan and merely a casual visitor to Amritsar. His witnesses, who were called from Dera Ghazi Khan have not come, but the *Comptroller of the Revenue* states that he knows the man well and that he is a permanent resident of Amritsar. The Sub-Inspector confirms this. The Inspector also states that the accused made no mention of his having come from Dera Ghazi Khan when the police questioned him. We and the defence Counsel satisfied ourselves as to the truth from the police diaries. The defence, in fact, was only picked up at the last moment, and was not mentioned in the statement which this accused made to the Court. We consequently reject his plea.

There is no reason to differentiate in the matter of punishment. Each accused has been sentenced to seven years' rigorous imprisonment, and the conviction have been registered under section 412, I. P. C.

The property found may be made over to a properly accredited representative of the National Bank.

10 — NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs. Mahajan and others
(LIFUT. COL. IRVING'S COMMISSION)

On April the 17th, between 4 and 5 p.m., the police, acting on information received, raided a house at Amritsar and found the accused, who are Kashmiris and live together all in one *laithel*, in possession of a quantity of piece goods and yarn which have been proved to be the property of the National Bank. They were at once arrested. There is no evidence for the defence of the accused, who merely deny the charge in each case, and say that the property was being kept by them for some neighbours. We cannot accept the uncorroborated statement of the accused.

We register a conviction against each of the accused under section 412, I. P. C. and sentence them to seven years' rigorous imprisonment each.

Judgment pronounced

The property found may be made over to a properly accredited representative of the National Bank.

11 — NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs. Mahaja
(LIFUT. COL. IRVING'S COMMISSION)

On April the 17th, between 4 and 5 p.m., the police acting on information received, raided a house at Amritsar and found the accused alone in this house, which belongs to him, in possession of a quantity of piece goods which have been

proved to be the property of the National Bank. He was at once arrested. There no evidence for the defence of the accused who merely denies that he was present. We cannot accept the uncorroborated statement of the accused.

We register a conviction against him under section 412, I P C. and sentence him to seven years' rigorous imprisonment.

Judgment pronounced.

The property found may be made over to a properly accredited representative of the National Bank.

12.—NATIONAL BANK LOOT CASE (AMRITSAR).

Crown Vs. Faal Din

(LIEUT.-COL. IRVINE'S COMMISSION).

On April 17th, at about 5 p. m. the police, acting on information received, raided a house at Amritsar and found the accused in the upper storey which was in his occupation, in possession of a quantity of piece-goods which have been proved to be the property of the National Bank. The accused was the only male present; there were women and children besides. He was at once arrested. In defence the accused says that part of the cloth produced belongs to him; the Bank's representative does not claim the pieces in bundle B but only those in bundle A, which the accused says he knows nothing about. The accused was caught in the act of burning a quantity of cloth (in *shams*) and his guilt admits of no doubt.

We register a conviction against him under section 412 I P C. and sentence him to seven years' rigorous imprisonment.

Judgment pronounced.

The property found may be made over to a properly accredited representative of the National Bank.

13.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs. Allah Rakha.

(LIEUT.-COL. IRVINE'S COMMISSION).

On April the 17th at about 5 p. m., the police, acting on information received, raided a house at Amritsar and found the accused with one woman in this house, which belongs to him in possession of a quantity of piece goods, which have been proved to be the property of the National Bank. He was at once arrested. The accused denies that he was present or that the house belongs to him, and adds that his mother was the real criminal. His witnesses are useless, and the Court does not consider that his plea is sustainable.

We register a conviction against him under section 412, I P C. and sentence him to seven years' rigorous imprisonment.

Judgment pronounced.

The property found may be made over to a properly accredited representative of the National Bank.

14 —CROWN PRINCE MOTI RAM (LAHORE)

(Sedition and attempt to seduce Police)

Moti Ram, the accused in this case, was charged with an offence under Rule 24 29 of the Defence of India Rules, to which a charge under section 124-A, I P. C., was subsequently added.

An armed guard of police under the command of Mr Gray, Reserve Inspector, was proceeding from the Anarkali Police Station to the Lohari Gate. A crowd was collected near the Lohari Gate, and the accused in a frenzied state and bare headed shouted out several times to the police "*Tum hamare bhai ho, hamare sath shahid ho*" The use of these words by the accused is positively sworn to by the witnesses, including Mr. Gray himself, who at once arrested the accused.

The defence is only as to character, and has no effect upon the case.

Counsel of the accused admits the commission of an offence under Rule 24 of the Defence of India Rules, but contends that the facts do not warrant a conviction under section 124-A, I P. C. We do not agree. The date of the occurrence was the 11th of April, 1919, and the time about 8 A.M. We cannot imagine any more flagrant example of an attempt to excite disaffection (which words include disloyalty and all feelings of enmity) against Government, than the use of the words which we have quoted addressed to armed police in the presence of a mob. The obvious intention of the accused was to excite such disaffection as would seduce the police from their duty and induce them to join the mob against the Government. In the circumstances, the invitation to armed police to become martyrs was an offence of the greatest gravity, and, but for the staunchness which the police displayed, might well have led to a very serious catastrophe.

For these reasons, we convict the accused on both charges, and sentence him to transportation for life.

15 —LAHORE UPPER MALL RIOT CASE

(Mr Justice Leslie Jones' Commission)

The news of the detention of Gandhi and that of the rebellion at Amritsar reached Lahore on the afternoon of the 10th April. Telegrams giving some details of what had happened at Amritsar were received between 3 and 4 P.M. and their contents became public property. Towards evening a large and excited mob collected in Lahore city. Leaflets were distributed to it and some of its members were heard shouting both in English and in vernacular that Amritsar had been taken and the situation was well in hand in Lahore as three gates were already held and a fourth would soon be closed. Headed by a man carrying a black flag, the mob proceeded with shouts of "*Gandhi ki jai*" and "*Shaukat Ali ki jai*" from the Lahori Gate through Anarkali to the Upper Mall. Some of its members entered the compound of the Government Telegraph Office but

turned back on seeing a detachment of the Royal Sussex which were guarding the building with fixed bayonets. By the time the mob had got as far as the Lawrence Statue it numbered some thousands. There it was intercepted by two Indian Police Officers with a handful of armed constables who were brought up at the double from Amarkali Police Station through the High Court grounds. These police lined the road in front of the mob but they were pressed back for a distance of about 200 yards as far as the Soldiers Club. It was then getting dark.

At this time Mr. Fyson the District Magistrate Mr. Cocke, D. I. G., C. I. D. and Mr. Clarke D. S. P. arrived on the spot. Mr. Fyson ordered the mob to retire but they pressed round him. One of them seized him by the shoulder from behind and they began to go through the thin line of police. They also attempted to get round them by going through the compound of the Soldiers Club. After some minutes Mr. Fyson, who, owing to the uproar had difficulty in making himself heard, ordered the police to withdraw a little further up the Mall in order to prevent them being overwhelmed by the mob and then as there was no other means of stopping its progress gave the order to fire. About a dozen rounds were fired and then the mob was pressed slowly back to the city. Near the Bank of Bengal Mr. Clarke was thrown down but he is a tallant escaped.

It is beyond doubt that the Lahore mob which marched on the Civil Station of Lahore was actuated by the same motives as that of Amritsar. It was essentially part of the same insurrection and it was fully aware of what had happened in the neighbouring town the same day. It was rapidly becoming more threatening, and had already displayed its contempt of the authority and person of the District Magistrate. A collision was inevitable and had the mob proceeded a little further up the Mall it would have found a supply of deadly weapons ready to hand. Had it not been checked where it was there was the gravest danger that it would have hurried on in the confusion and darkness, to the commission of awful crimes.

In ordinary circumstances the offence actually committed would not have amounted to more than rioting but this occurrence cannot be viewed as a detached and independent incident. It was plainly a part and parcel of the rebellion which had already broken out.

We find therefore that offences under section 121 I. I. C. as well as under section 147 L. P. C. were committed.

There are only four accused. Of these Ahn al Din No. 1 a J. aged 40, is an illiterate mineral water and ice vendor who made himself prominent as the bearer of the black flag. Ata Mul mimad No. 2, aged 25, a book seller who has been given a very good previous character by Mrs. Richards, wife of the

Professor of English at the Islamia College. Barkat Ram, No 3, aged 20, is a Telegraph Clerk, and Feroze Din, No. 4, aged 20, is the fireman of a Municipal Road Engine.

Accused Nos 2 to 4 were all hit with buckshot and we have no doubt that they had all joined the mob.

They are convicted and sentenced as in the schedule annexed. But the question of their sentences will be referred for the consideration of Government.

16 — GUJRAT CASE.

(Mr. Justice Leslie-Jones' Commission)

This judgment deals with cases Nos 5 and 7 both relating to the outbreak at Gujrat.

On the morning of the 14th April after the news of the rising in Gujranwala had been received, seditious notices were posted in Gujrat announcing a rebellion and *Hartal*, and warning Europeans that if they were not careful they would be murdered. The shops were closed the same day, and a mob, shouting the usual cries, promenaded the city.

On the morning of the 15th the rioters re-assembled, bareheaded, with a black flag and a picture of Gandhi. They then proceeded to the Mission High School, and when the Head Master refused to close it, broke in, smashed the windows and furniture, and closed it forcibly. The city was again promenaded, and in the afternoon the mob marched, smashing lumps on its way, to the Railway Station, where it at once proceeded to wreck the telephone and telegraph instruments, and to burn the papers in the Booking Office. At this juncture the reserve police guard arrived, and fired under the orders of the Senior Subordinate Judge, who, with other officials, had already tried in vain to disperse the mob. No one was injured probably because the police fired high deliberately. A number of arrests were made on the spot and others afterwards.

• So far as the general facts are concerned the cases are simple enough, but the matter is different as regards individuals. In some instances there is no evidence which, even if believed, would justify conviction, and in some others the evidence is very thin. In a good many more personal and party animosities have clearly played a very large part. Much of the evidence, even that of officials, is tainted in this way, and there has also been some deliberate perjury. We do not intend to discuss individual cases, but for various reasons we are not satisfied of the guilt of the following, who are, therefore, acquitted —

Case No 5 — Kundan Lal (No 7), Mahtab (No 10), Tarlok Nath (No 14), Mul Raj (No 20), Guru Das (No 22), Feroz Ali (No 23), Tarlok Nath (No 24), Pirthi Raj (No 25), Rahmat (No 26), Fazal (No 27), Hargopal (No 28), Tara Chand, (No 29), Bhagwan (No 30), Lal (No 31), and Girdhari (No 32)

In Case No. 7—Nand Lal (No. 1) Diwan Chand (No. 2) Ram Chand (No. 3) and Fazal (No. 4)

The remaining accused Ghulam Nabi (No. 1) Peshawari Lal (No. 2), Abdul Shakur (No. 3) Najam Din (No. 4) Ghulam Muhammad (No. 5), Fakir Muhammad (No. 6) Kidar Nath (No. 8) Arura (No. 9), Kanjah (No. 11), Kali Das (No. 12) Tofail (13) Devi (No. 15) Fakira (No. 16) Raja Ram (No. 17) Amar Nath (No. 18) Sadhu Singh (No. 19) and Ghulam Hussain (No. 21) are convicted and sentenced as shown in the schedule annexed. Of these Najam Din (No. 4), Arura (No. 9) Rapiha (No. 11) and Ghulam Hussain (No. 21) were the most prominent. The question of the sentences of the prisoners will be referred for the consideration of Government.

17—JALALPUR JATTAN RIOT CASE (GUJRAT).

We have before us 16 accused variously charged under sections 121 147 124 A 124 A 323 and 146 149 and 323 and 146 149 I P C.

This case relates to the proceedings of April 15 and 16 at Jalalpur Jattan, a township some nine miles from Gujrat in the Gujrat District. There was a *kasal* on the 15th but apparently little else. On the 16th the Municipal Committee met in the morning to concert measures for dealing with possible disorder. They were too late. Hardly had they met when a mob invaded the room, snatched off the turbans of the members and impelled them from the building. Outside speeches were made against the Government and the Howlitt Act and the mob then moved off in two bodies, one to the Post Office and the other to the Mission School where, however no damage was done beyond the breaking of a few windows at the school by some boys, and the movement then subsided. The people who are mainly Kashmiris were obviously not prepared to go to extremes; and the efforts of the chief agitators met with no more than the success above described.

Although we cannot regard the occurrence as very serious—for the occasion seems to have been taken rather to emphasise the mob's antipathy to the Municipal Committee—yet the object of the leaders was undoubtedly to excite disaffection against Government. We are unable to find that war was actually waged or that the actions of the mob ever amounted to insurrection.

The evidence against the majority of the accused is unsatisfactory. The fact that the town is a hot bed of partnership and petty faction has tainted so much of the evidence given that we have found the case unproved as against nine of the accused, who have consequently been acquitted. Of the remainder Abdul Rashid (accused No. 7) an Islamic School teacher since dismissed was the worst offender. It is unanimously agreed that he uttered violent abuse of Government and was the most prominent of the leaders. That he was an organiser is shown by Exhibits P A. and P B. papers proved to be in his house. Abdul Aziz (accused No. 6) was another leader. Mahma (or Muhammad Din) accused No. 11

assaulted Muhammad Shah, Honorary Sanitary Inspector, who had been an energetic recruiter Sardara (accused No 12), assaulted Muhammad Shah and is uniformly named as an active member of the mob. Ihsan Ali carried a black flag and blew a horn, but otherwise does not appear to have taken a conspicuous part. The case of Nand Lal (accused No. 4), presents difficulty and we have decided to give him the benefit of the doubt, he is acquitted

As to the law applicable we have already indicated that no offence under section 121, I P. C., has been made out. We register the convictions of Abdul Rashid (No 7), and Abdul Aziz (No 6), under section 124 A, I P C., and of Ihsan Ali, Mahma and Sardara under sections 124 A 149, I P C and sentence them as follows —

Abdul Rashid, (No. 7) transportation for 14 years.

Abdul Aziz (No 6), transportation for 10 years

Ihsan Ali, (No 8), Mahma, (No 11), Sardara, (No 12) rigorous imprisonment for three years each

It is unnecessary to come to a finding on the other charges

Sentences pronounced on the above named convicts. The case of Ghulam Muhammad, (No 17), who was arrested subsequently to the others, is postponed for production of defence evidence on the 15th of May 1919

18 — NATIONAL BANK LOOT CASE (AMRITSAR).

Crown Vs. Kesho Ram

Kesho Ram, Brahmin, aged 25, Commission Agent of Patti, was arrested on the night of the 10th April in possession of about 50 yards of high quality cloth looted from National Bank at Amritsar that afternoon. There is practically no defence, and the case is clearly proved. Sentence—seven years' rigorous imprisonment under section 412, I P C.

The property to be delivered to an accredited representative of the National Bank

19 — NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Mehr Din

Mehr Din aged 45, Lohar, by occupation beggar, was caught on the night of the 18th April in possession of a quantity of cloth which had been looted from the National Bank on the 10th April. The case is clear. But the cloth in question was probably a part of that thrown out into the streets by the original dacoits or receiver on the 18th April when the searches had begun. The accused, who is a person of somewhat feeble intellect, is convicted under Section 412, I P C., and sentenced to two years' rigorous imprisonment

The property to be delivered to an accredited representative of the National Bank

20.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Ali Mohammad

Ali Mohammad son of Rukan Din servant of a skin merchant, 40 years, of Amritsar was found in possession of a large quantity of cloth etc looted from the National Bank at Amritsar on the 10th April. The case is clear. He is convicted under Section 412 I P C and sentenced to seven years rigorous imprisonment.

The property to be delivered to an accredited representative of the National Bank

21.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Khuda Bakhsh

Khuda Bakhsh, aged 45, Rajput carrier was found in possession of a quantity of cotton and chintz which was looted from the National Bank on the 10th April. The case is clear. He is convicted under Section 412 I P C and sentenced to seven years rigorous imprisonment.

Property to be delivered to an accredited representative of the National Bank

22.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Nizam Din.

Nizam Din Sheikh baker aged 50, was found in possession of a large quantity of various kinds of cloth, wool and lace which had been looted from the National Bank at Amritsar on the 10th April. The case is clearly proved. Accused is convicted under Section 412 I P C. and sentenced to seven years rigorous imprisonment.

Property to be delivered to an accredited representative of the National Bank

23.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Hussain Bakhsh.

Hussain Bakhsh mason, an old man of 70, is charged with being in possession, on the 17th April of a few skeins and cotton yarn looted from the National Bank of Amritsar on the 10th April. It is very probable that the skeins were so stolen but they are not identifiable and we doubt if the accused had buried them as alleged. He is acquitted.

24.—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Feroz Din

Feroz, Mashki aged 20 of Amritsar was found in possession of cloth, chintz, vaseline bottles and 50 wrist watches looted from the National Bank at Amritsar on 10th April. The case is clear. He is convicted under Section 412, I P C. and sentenced to seven years rigorous imprisonment.

The property to be delivered to an accredited representative of the National Bank.

25 —AULAKH CASE (GUJRANWALA) (LIFT 1 -COL. HAINI'S COMMISSION)

The eight accused are charged under sections 147, 435, 436 149 and 124 A 149, I P C, to which charges under section 121, I P C, were subsequently added.

On April 16th in the large Jat village of Aulakh in the Gujranwala district there was an insurrection in which the *patwarikhana*, containing valuable revenue records of six villages, was burnt to the ground. The eight accused have been proved to be the incendiaries, and they were headed by the two *lambardars*, Ganda Singh and Makhn Singh (accused Nos. 1 and 2), and Singhara Singh (accused No. 3). The accused violently prevented any attempt to put out the fire, and gave vent to treasonable cries announcing that Lahore, Amritsar and Chuharkana had been burnt, that the British *Raj* was extinct, that they were now rulers and that by burning the records, the Jats would get their land back, they also threatened that any supporters of Government would be thrown on the fire. The arrival of the patrol of Sh. Rahmat Ullah (P. W. I.) was fortunately sufficient to prevent the spread of disorder.

We consider that these actions clearly constitute the waging of war, the defence of *alibi* and enmity made in each case is absurd, and we convict all the accused accordingly of an offence under section 121, I P C. We note that the name of Gian Singh (accused No. 7) does not occur in the P. I. R. made the same evening by the patwari, but that official was clearly in a most perturbed state of mind. Gian Singh was named next morning, there is no special reason why he should have been implicated falsely, and we are satisfied that Gian Singh is guilty.

Only two punishments are provided for the offence—death or transportation for life, it is necessary to discriminate between the two sets of accused, namely, Ganda Singh and Makhn Singh, *lambardars* (accused Nos. 1 and 2) with Singhara (accused No. 3) who actually set fire to his own turban to start the conflagration and whose guilt we place on a par with that of the other two, and the remaining accused who joined the above named three leaders. The two *lambardars*, who from their position could and should have checked any such outbreak of violence, yet were the actual leaders, are, in our opinion, guilty of a crime of the utmost gravity, their action in a strong Jat village like Aulakh might have had the most serious consequences and have caused a general rising in the whole countryside. Their object is plainly indicated by the attack on the *patwarikhana* and revenue records as the symbols of Government authority in their village. It was only the absence of any but most feeble opposition that prevented the outbreak from being accompanied by murder. Not only therefore is a deterrent but also because we think the crime merits the extreme penalty provided for the offence, we sentence Ganda Singh, Makhn Singh and Singhara Singh to death. Although Ganda Singh has given his age as 70 years he is plainly not nearly so old as this

It is probably not more than 55. The remaining accused are sentenced to the lesser of the two penalties provided—that is to say, to transportation for life. It is unnecessary to record any finding on the other charges. We further direct that all property liable to forfeiture of which the accused were possessed at the time of the commission of the offence shall be forfeited to Government.

Judgment pronounced

We invite the attention of Government to the action of Balaqi the third *law bandar* who refused to join the conspiracy and endeavoured to send information to the thans. The *Futwari* Diwan Chand also behaved well. Further inquiry might reveal the names of others whose attitude or action may have merited recognition.

26.—LOHARI GATE RIOT CASE (LAHORE)

We have before us nine persons accused of offences under sections 121, 147 and 152, 149 I. P. C. The occurrences which form the subject of the charges constitute a continuance of the riot of April 10th on the Lahore Mall. That has already been dealt with judicially in another place. When the mob was driven back from the Mall it did not dissolve but was slowly pushed by a small force of police into the Nila Gunabaz Chawk and up the Anarkali towards the Lohari Gate. There it was reinforced by a crowd issuing from the City and the police under Mr. Clarke D. S. P. were held up at a point a little short of the cross-road where the Circular Road cuts across the Anarkali. Mr. Broadway S. P. came up with a small body of police and cavalry but even so the forces of order were unable to disperse the mob which showered brickbats upon the police and sowars. Two or three rounds of buckshot fired at the roof of some houses from which the shower of missiles was most persistent failed to do more than check the attack from that quarter. A message brought Mr. Tyson D. C. to the spot. He went forward into the crowd and endeavoured to reason with P. Ramkhai Datt or L. Daul Chand (he does not remember which) who were there, but all efforts to disperse the mob failed and at last some half-a-dozen rounds of buckshot were fired. The mob was then dispersed without further firing.

We have acquitted Jiwan Lal (No. 7) and Feroz Din (No. 9) giving them the benefit of the doubt, and have convicted the remaining accused all of whom were wounded by buckshot, and of whose participation there is no doubt. That the offence committed was that of waging war needs no demonstration, and we register the convictions accordingly under section 121, I. P. C. ignoring the charges under the other sections. The capital sentence is not required and the only other punishment allowed by the law is that of transportation for life. To this we sentence the remaining accused named here-under but in each case a recommendation for reduction of sentence will be made to the local Government.

1 Mahtab, 2 Abdul Rahim, 3 Bishan Chand, 4 Fazel Hussain, 5 Jadu Mal, 6 Ghulam Muhammad, 7 Shiv Das.

Such property as was in the possession of each of the convicts at the time of the commission of the offence, and as is liable to forfeiture, will be forfeited to the Crown

We commend to the notice of Government the admirable conduct of all concerned in dealing with the mob

27 —GUMANPURA RAILWAY DERAILMENT CASE

(AMRITSAR DISTRICT)

On the evening of the 12th April, Lal Singh, (No 1) Lambardar of Sanghna, a village some four or five miles to the west of Amritsar, visited the neighbouring villages of Gumanpura and Basarke, where he described the insurrections in the city, urged that everyone should rise to help, and that the railway line should be cut. He then returned to his own village. Later in the evening a meeting was held at Basarke under the guidance of Ishar Singh, (No 2), and Inayat (No 3), who declared that the British Government had been overthrown, and it was decided to follow the advice of Lal Singh, and to cut the railway line which runs close by. A considerable body of men at once set out to accomplish this purpose. Willing assistance was obtained from two Gangmen, Jhanda (No. 14) and Jhanda, (No. 15), who provided the tools and unscrewed the fish plates. Two whole sections of the Up and Down lines were, with their sleepers, bodily removed leaving parallel gaps 30 feet long. The gang then went home. It was fortunate that the goods train from Amritsar was the first to arrive. The engine and eight wagons were derailed, but, as prompt information was wired to Amritsar, there was no further damage.

There are 16 accused. Against Amin Chand (No 10) there is no evidence. Against Sadr Din (No 4) Dogar (No 11) and Ujagar Singh (No 16) the evidence is not strong enough to warrant conviction. These four accused are, therefore, acquitted.

Of the rest Lal Singh (No 1) is the only accused who has been charged by the Convening Officer under section 121, I P C. It was he who first incited the country side to rise, and suggested the cutting of the line, and although by a fortunate chance no one was killed, the most likely result of his suggestion was a heavy loss of innocent lives. Plainly his object was not merely to derail a goods train. There had been no previous breaches of the line, the railway were not on their guard, and in the case of a fast passenger train disaster would have been almost inevitable. Of this he must have been fully aware. His case is in no way improved by the fact that having originated the crime he was not present at its commission, and in our opinion he is by far the worst offender. He is sentenced to be hanged by his neck until he is dead, and to forfeiture to Government of such of his property as is liable to confiscation.

The remaining accused are sentenced as in the schedule annexed. In awarding sentences the age, social position, occupation and prominence of each have been taken into consideration.

[Sentences—Lal Singh *lambarda* sentenced to death and forfeiture of property; Ishar Singh Inayat Wasakhi Lachman Jhandla (14) and Jhandla (15) sentenced to transportation for life; Din and Bata Singh to ten years rigorous imprisonment; Bishan Singh, Bata and Kishan Singh to seven years' rigorous imprisonment]

28—AKALGARH RIOT CASE,

(GUJRANWALA DISTRICT)

In this case the first six accused stand charged with offences under Sections 121 124 A 147, 426, 431 435, 149 and 506 I P C. and the remaining accused, Nos. 7 to 30, with offences under Sections 121 147 435, 124 A—149 431 and 426 I P C. Akalgarh is a small town in the Gujranwala district. There was the usual *kartal* there on April 6th 14th and 15th, but only the occurrences of the last two dates are made the subject of the charges. The first six accused enforced the *kartal* with threats; meetings were held and a mob collected and roamed about between the Railway Station and the town with cries of "*Gandhi ki jai*" and "*kai hai Rowlatt Bill*". Only passive resistance and *kartal* appear to have been advocated, however until the 15th when Bishan Das (No. 2) and Sohan Singh (No. 5) who had gone to Wazirabad to obtain information returned with the news of the happenings at Gujranwala, and upbraided the people with having done nothing at Akalgarh. That night feeble attempts were made to set fire to a couple of bridges on the line, the glass of a signal was broken and an insulator smashed. This mischief appears to have been done by boys, amongst whom were Utra (No. 7) and Dulla (No. 10) who are said to have broken the insulator only but the evidence against the rest of accused Nos. 7 to 30 is uncertain and unreliable. The fact is that the leaders Nos. 1 to 6 were able to obtain only lukewarm support and the people were not prepared to go to extremes. The mob, never a large one was kept off the station premises without difficulty and its proceedings were a mere parody of rebellion.

We acquit accused Nos. 11 to 30, we convict Utra (No. 7) and Dulla (No. 10) of mischief only under section 421 I P C. They are however mere boys of 15 years of age, and were incited by others whipping would therefore be a suitable punishment but as they have been in custody for three weeks, we consider that they have already suffered sufficiently and we order them to be imprisoned until the rising of the Court only.

We convict Nos. 1 to 6 namely Badri Nath, Bishan Das, Gokal Chand Bhabambar Das, Sohan Singh and Ishar Das, of criminal intimidation under section 506 I P C. and sentence each to one year's rigorous imprisonment, and a fine of Rs. 100, or in default, three months additional rigorous imprisonment. We also convict Bishan Das (No. 2) and Sohan Singh (No. 5) of sedition under Section 124 A and impose on each of them a sentence of one year rigorous imprisonment the sentences to run consecutively in each case.

29 - KHEM KARN STATION CASE.
(Mr Justice Leslie Jones' Commission)

Khem Karn railway station about eight miles from Kasur on the line to Pathankot. The Kasur natives' place on the 12th of April, and on the same day at 3.45 p.m. the station staff of Khem Karn were informed that the telegraph wire had been cut. Immediately after, two men Arjan Singh and Maulu came into the station and enquired to know why the train had not arrived. (One of them, Maulu had been in Kasur the same morning amongst the rioters). They were joined by 15 to 20 others, most of whom carried sticks, and the general attitude of the gathering was so threatening that the three members of the station staff fled from the office. In response to the alarm given by them some cultivators came to the railway station, and the rioters made off as fast as they could, dropping some of the booty as they went.

The damage done consisted of the removal of the telegraph instruments and other railway property, some building and personal property of the staff, the theft of Rs. 15 from the till and the breaking of the lamp room door, from which a tin of oil was removed. Had timely assistance not been available it was the obvious intention of the rioters to set fire to the furniture and possibly to the building.

We find that the offence of dacoity has been established and convict 5 of the 11 accused who have been clearly identified—including the two ring leaders, Arjan Singh and Maulu. These two are sentenced to transportation for life and the others to terms of imprisonment as stated in the schedule, the distinction drawn between Juma and the other two being, that while they are menials he is a zemindar.

The remaining six accused are acquitted. There is no evidence whatever against Teju and that against the remainder is insufficient.

30 — NATIONAL BANK LOOT CASE (AMRITSAR)
(Crown Vs Gyan Das Faqir)

Gyan Das Faqir, aged 18, pleads guilty of being in dishonest possession of a small quantity of cloth which he picked up in the street knowing it to have been stolen from the National Bank of India at Amritsar. He is convicted under section 412, I P C. We think he should be whipped, but as we are not authorised to inflict that punishment we sentence him to six months' rigorous imprisonment. The property will be delivered to an accredited representative of the National Bank of India at Amritsar.

31 — HIRA MANDI CASE (LAHORE)
(Lieut-Col Irvine's Commission)

Owing to the serious state of disorder existing in Lahore it was decided on April 11, 1919, to occupy certain points in the city by picquets of police and troops. To carry out this decision a force assembled at the Railway Station on

the morning of April 12th and proceeded through the Delhi Gate and up the Hira Mandi. On reaching the entrance to the Tibbi Bazar this force which was accompanied by Civil Military and Police Officers found itself so hampered by a large and unruly mob, which had collected in its rear that it faced about and endeavoured to disperse the mob by pushing it back along the Hira Mandi. It reached the turning leading to the Badshahi Mosque and was there held up by the crowd which had assumed a very menacing attitude. Constant warnings had been addressed to the mob to induce it to disperse and at the turning final efforts were made to do this by peaceful means. These failed and the order to fire was given by the Deputy Commissioner. Not more than 8 rounds were fired by the police—the troop were not called upon to do so—and this quieted the mob sufficiently to allow of its being then dispersed without the use of further force.

Of the 16 accused now before us charged with offences under sections 121
 124 A 152
 147 and ——— I P C no less than 14 were wounded by buckshot. Of
 149
 the remaining two unwounded accused, we are not satisfied with the evidence against one Muni Lal (No. 14) and acquit him accordingly; but the other Feroz Din (No. 15) was arrested on the spot and we find him together with 14 wounded accused, guilty of an offence under section 121 I P C. The defence of all accused is that they were innocent bystanders, or passers-by but in no case is this supported by convincing evidence.

None with the possible exception of Feroz Din (No. 15) appears to have been among the leaders and as regards Feroz Din (No. 15) although he is alleged to have been prominent in this and other disorders (he has been convicted in the Badshahi Mosque case and acquitted in the Lohan Gate case) there is insufficient evidence to justify that conclusion in the present case. In sentencing the convicts Nos. 1 to 13, 15 and 16 to the lesser penalty of transportation for life which we hereby do we shall also recommend all for reduction of this sentence.

All property which was in the possession of each of the convicts at the time of the commission of the offence and is liable to forfeiture will be forfeited to the Crown.

32 —NATIONAL BANK LOOT CASE (AMRITSAR).

Crown vs Santa Singh.

(*Afr Justice Leslie Jones' Commission*).

Santa Singh, barber of Tehra Kalan, aged 25, pleads guilty to the possession of property which he knew to have been stolen from the National Bank at Amritsar. He is sentenced to five years rigorous imprisonment.

33—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Sardara

(Mr. Justice Leslie Jones' Commission)

Sardara, son of Ditta Singh, aged 25, of Ichaukian, in Amritsar, pleads guilty to the possession of a quantity of cloth which he knew to have been stolen from the National Bank at Amritsar. In the circumstances, he is sentenced to five years' rigorous imprisonment.

34—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Mehar Din and another

(Mr. Justice Leslie Jones' Commission)

Mehar Din pleads guilty to the possession of a quantity of property which he knew to have been stolen from the National Bank at Amritsar. In the circumstances, he is sentenced to five years' rigorous imprisonment. His co-accused, Shera, is found not guilty and acquitted.

35—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Kirpa

(Mr. Justice Leslie Jones' Commission)

Kirpa, son of Parama, aged 13, pleads guilty of being in possession of property, which he knew to have been stolen from the National Bank at Amritsar. He is sentenced to 15 stripes as a juvenile offender.

36—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Kashmiri Lal

(Mr. Justice Leslie Jones' Commission)

Kashmiri Lal, son of Ganda Ram, Brahmin, aged 22, pleads guilty of being in possession of a quantity of cloth which he knew to have been stolen from the National Bank of India at Amritsar. The circumstances of the case having been considered, he is sentenced to five years' rigorous imprisonment.

37—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Maya Ram

(Mr. Justice Leslie Jones' Commission)

Maya Ram, aged 18, Brahmin, sometime driver, pleads guilty to being in possession of certain cloth which he knew to have been stolen from the National Bank at Amritsar. He is sentenced to two years' rigorous imprisonment.

38—NATIONAL BANK LOOT CASE (AMRITSAR)

Crown Vs Mahanna,

(Mr. Justice Leslie Jones' Commission)

Mahanna, son of Nur Din, aged 15, Arain, pleads guilty to being in possession of certain cloth which he knew to have been stolen from the National Bank at Amritsar. He is sentenced to 15 stripes as a juvenile offender.

39.—HAFIZABAD CASE —(GUJRANWALA DISTRICT)
(Mr. H. Prenter a Commissioner).

Nineteen persons have been charged before me under section 121 147 307 436 149, Indian Penal Code. An outrage occurred on the 14th April 1919 at Hafizabad railway station (Gujranwala District) which has been clearly shown by the evidence to have had close connection with the riots in Lahore and other places. Meetings were held in Hafizabad in which not only was the Rowlatt Bill condemned but a strong action was urged upon the crowd in emulation of what had taken place elsewhere. On the Morning of the 14th one of these meetings was held near the railway station and after the orators had incited the crowd to take immediate and vigorous steps to overthrow the Government by raising as much opposition as was possible one of the leading participants in the meeting called attention to the fact that the train was coming in. The train passed close by the mob who immediately said that a 1st class compartment was occupied by a Military Officer in uniform who had a child with him. The mob straightway rushed into the station and without hesitation made an attack upon the 1st class carriage. Lieutenant Tatam (the officer in question) had taken the precaution of shutting and bolting the door and windows. The mob broke in all the windows and shutters on the platform side with sticks and stones and endeavoured to hit the occupants. The latter withdrew into the bath room the window of which looked out on the outside of the train. The crowd (or some of them) then went to that side and broke the bath room window and threw stones at the Europeans. In the meanwhile three Indian gentlemen with the greatest bravery and a sense of the seriousness of the situation tried to keep the crowd in hand. They also sent word to the Assistant Station Master to have the train started. This was done about eight minutes after its arrival and the train steamed out followed by a chorus of jeers and a final volley of brickbats. Lieutenant Tatam and the child escaped without injury. There can be no doubt but that the whole series of acts amounted to waging war against the King. In this connection it is worth noting that on that day and on the previous day the crowd had marched about waving a black flag. They were incited by the orators to take active steps against the Government and the assault upon the train and upon the European officer were undoubtedly steps taken in furtherance of the common design. It is true that thanks to the intervention of the Indian gentlemen already mentioned and to the departure of the train before the due time, not very much damage was done. But the intention of the mob is beyond doubt—namely to attack the Government as represented by the officer and but for the fortunate accidents we have alluded to Lieutenant Tatam and the child would have been killed. The lack of success was partly due to the fact that one of the leaders, Muhammad Din, changed his mind and tried to allay the storm he had assisted in raising. The pusillanimity of the mob owing to the lack of a vigorous leader does not in our opinion seriously lessen their guilt. We find that all who took part in the assault are guilty under section 121 Indian Penal Code. It remains only to record our findings as to whether the 19 accused persons were satisfactorily proved to have been active members of the mob. We find that

keepers to shut their shops. They went also to the Jubilee High School and after a display of violence they compelled the head master to close the school. Thus began a day of rioting mischief and damage with the result that 19 persons have been placed before a court for trial on charges under sections 121 147 436, 395, 149 and 412, I P C., and 13 others on charges under section 147 395 and 412, I P C. The evidence as to what was done by the mob is exceedingly strong and clear.

The mob having closed the school tried to break out in one or two directions, but were headed off by a few troopers and their officer and ultimately they went along the railway line leading towards Gujranwala. First they came to a level crossing and then they smashed the gates put the bars into some huts belonging to the railway and used as residence by the coolies and then set fire to the huts. Having demolished this portion of the railway property they went further along the line to a railway bridge. This they broke up as well as they were able with crow bars with which they had armed themselves at the huts. Finding this procedure too slow they set fire to the bridge. At this point they found themselves within reach of the house belonging to the Rev. Grahame Bailey a Church of Scotland Missionary. The ring leaders suggested that they should go and burn it. Some of the mob demurred saying that Mr. Bailey was an Irishman and therefore against the Government, but the more violent elements in the crowd prevailed and the whole body (with one or two exceptions) marched on the house. Fortunately Mr. Bailey and his family had been removed to Wazirabad on the previous afternoon by the military who had been expecting trouble. On reaching the house they were met by Mr. Bailey's servants who begged them to spare the house. The servants were brutally commanded to go unless they wished to be burnt along with the house. A desperate scene of rioting and looting was witnessed the house was thoroughly ransacked for treasure and then it was set ablaze. Damage to the extent of Rs. 40,000 is said to have been caused and Mr. Bailey states that this does not include the cost of the house itself. Sated with their work and probably anxious to dispose of their ill-gotten gains, the mob then dispersed. In the meanwhile the inhabitants of the neighbouring village of Waloke had come to the spot and the sight of so much abandoned loot proving too much for them they picked up what the rioters had left and decamped with it to their houses.

We are satisfied that the conduct of the crowd, which is proved beyond question, shows that this day of rioting was not the work of chance thieves or dacoits. The mob stirred by the news of the armed rebellion in Gujranwala plainly determined not to be left behind and they accordingly with deliberation set out in strength to do all that was in their power to damage the Government. They destroyed or attempted to destroy every sort of Government property on which they could lay their hands, and the breaking of the railway line by the burning of a bridge links up their efforts with similar acts in other parts of the district. Finally they saw the house of Mr. Bailey and it is impossible not to believe that the burning of this house was an act of defiance of the Government and not one of enmity to Mr. Bailey who is deservedly most popular in this part of the Punjab. We are satisfied that it is

because he was a white man, and not because of anything personal, that his house was destroyed. The mob therefore all along acted in a pre concerted and deliberate way and were guilty of "waging war against the King". All who took active part in the operations are guilty of an offence punishable under section 121, I. P. C.

The evidence is given in such detail that it is possible to differentiate between the individual accused persons. For instance, it is clear beyond doubt that the ring leaders were Muhammad Hussain (No 1), Basheshwar Nath (accused No 2), Din Muhammad (accused No 3) and Amar Singh (accused No 16). These were the men who led the mob successively to the school, to the level crossing, to the bridge, and to Mr Bailey's house, and these were the men who truculently ordered Mr. Bailey's servants to leave unless they wished to be burnt and who were most active in the burning and looting of the house.

Muhammad Hussain (No 5), Abdul Rahman (No 6), Abdullah (No.7) Muhammad Hussain (No 8), Allah Ditta (No 11), Allah Ditta (No 13), Abdul Karim (No. 15), and Nizam Din (No 19),—all took a very active part in the destruction of the level crossing gates, the huts, the bridge, and Mr Bailey's house, but they were clearly acting under the leadership of the other four. Ata Ullah (No. 17) joined in the destruction of the gates, the hut and the bridge, but there is no evidence that he went to Mr Bailey's house, and it is quite possible that finding that the mob were going to extreme lengths in their warfare against Government, he thought it wiser to dissociate himself from his companions. We have given him the benefit of this doubt and have found him guilty on the lesser charge of mischief under section 436, I. P. C. Muhammad Azim (No 4), Rahmat (No 9), Abdul Razaq (No 10), and Ahmad (No. 14) are mere boys and cannot have intended to wage war. We have convicted them under section 495, I. P. C., and there is no doubt about their having taken part in the looting of the house. Abdul Wahib (No 12) and Muhammad Hussain (No 20) we have acquitted as the evidence against them was slight, they also are very young boys. Accused No 18, Ahmad Din, was not put on his trial as the police have not as yet procured sufficient evidence about him.

As regards the rest of the accused, after careful scrutiny of the evidence we formed the opinion that (with the exception of three) they were not proved guilty of any offence. What happened was that seeing the house in flames they came to the spot and made off with such articles as the rioters had dropped or abandoned in their flight. Possibly the sight of the loot led them astray, but it appears that after a few hours' reflection they thought better of it and they collected most of their takings and stored them with Wilayat Shah, (accused No 21), the *Pir* of the village, and told Mr Bailey's *Mhansama* what they had done. When the police arrived the missing articles were promptly given up. We think that they were moved by affection for Mr Bailey and that they are entitled to a *locus poenitentiae*. We have therefore acquitted all except three.

Sardara (No 22), Hazura (No 23) and Ilahi Bakhsh (No 24) are undoubtedly guilty of retaining property that had been taken by the dacoits from the house. Sardara and Ilahi Bakhsh actually broke open a box and stole the contents, whilst Hazura made off with a bundle of clothes. We think that Sardara should be dealt with sternly as he is the *lambardar* of the village and that Hazura who did not take such leading part should be treated with some lenience. We convict all three under section 412, I P C. In all cases the defence evidence was quite worthless. We convict Nos. 1 2, 3, 5, 6 7 8, 11 13, 15, 16 and 19 under section 121 I P C. and Nos. 4 9 10 and 14 under section 395, I P C. No 17 under section 436, I P C., Nos. 22, 23 and 24 under section 412, I P C.; and we acquit Nos. 12, 20, 21 25, 26 27 28 29 30 31 32, and 33. We award sentences as given in the annexed schedule. All those convicted under section 121 I P C are to have their property (liable to forfeiture) forfeited to Government.

[Sentences.—Four accused Muhammad Hussain Basheshar Nath Din Muhammad and Amar Singh were sentenced to death and forfeiture of property eight to transportation for life and forfeiture of property two to ten years rigorous imprisonment one to 7 years and one to 5 years rigorous imprisonment four to 20 stripes, and 12 were acquitted.]

41—GUJRAT RIOT SUPPLEMENTARY CASE

(Mr H Prenter's Commission)

Two of the absconding accused in the Crown *versus* Ghulam Nabi and others of Gujrat tried by the Hon. Mr Leslie Jones Commission on 2nd May 1919 in connection with the wrecking of the railway Station at Gujrat on 15th April last (Case No 5 of 1919) have been arrested and put before us for trial. The evidence satisfies us that the mob were waging war against the King and did so with considerable effect. The evidence further proves satisfactorily that Tarlok Nath and Narajin Das were active members of the mob throughout the day and took part in several acts of violence. They also incited their comrades by inflammatory remarks and speeches. They are guilty under section 121 I P C and we convict them accordingly. We sentence them to transportation for life and direct that such of their property as is liable to forfeiture be forfeited to Government.

42—RIGO BRIDGE CASE (F. MURTHA.)

(Lt Col. Irvine's Commission)

Sergeant Rowlands was brutally murdered near the Rigo Bridge at Amritsar at about 2 p.m. on April 10th. He appears to have gone to the city and to have been endeavouring to make his way back to the Fort when he found the city in an uproar. His skull was fractured in three places the injuries were caused by blows from a heavy blunt weapon. Both accused subsequently boasted of the crime. Accused No. 1 is amply identified by independent witnesses, and accused No. 2 made a confession which was duly recorded by a 1st class Magistrate on April 14th. The weapon put in is a straining screw and was discovered in

consequence of information furnished by accused No. 1 himself who used it on the deceased. Accused No. 2 is said to have had a stick, but there is no evidence that he actually struck the deceased. He is, however, equally guilty of offences under sections 121 and 302 Indian Penal Code, of which we find both accused guilty.

The sentence in each case will be one of death and forfeiture of such property as each was possessed of at the time of the commission of the offence and as is liable to forfeiture.

43 —SANGLA HILL CASE.

Attempt to murder Mr. Wale

(MR. H. PRINCE'S COMMISSION)

Harnam Singh has been placed before us charged under section 307, I.P.C., of having attempted to murder Mr. Wale, of the Telegraph Department at Sangla Hill. The evidence shows that this was an isolated occurrence—an attack by a fanatic upon an officer of the Government. The identity of the accused has been fully proved. The attack was a very murderous one and Mr. Wale saved himself only by firing upon his assailant. There is no doubt as to the intention to murder. The defence evidence is worthless. We convict Harnam Singh, under section 307, I.P.C. and sentence him to transportation for life.

44 —BHAGTANWALA CASE (AMRITSAR)

(Lt.-Col. Irvine's Commission)

On the afternoon of 10th April a mob sacked the Post Office near the Golden Temple at Amritsar, collected and burnt all Government property in it, but refrained from setting fire to the building as it was privately owned. The mob moved on to Bhagtanwala Railway Station, a mile distant, where they cut the telegraph wires, looted the godown and set the station building on fire.

The 15 persons brought before us were accused of having been concerned in one or other or both of these affairs, and have been charged with various offences under sections 121, 147, 395, 436, and 412, I.P.C.

We acquit accused Nos. 12 and 15, Buti and Khuda Bakhsh, *alias* Billa, against whom we think the evidence is insufficient. Against Gama (No. 11) an offence under section 412, I.P.C., only has been made out, and, in convicting him under that section, we sentence him to five years' rigorous imprisonment.

The remainder have, we consider, been satisfactorily proved to have committed the offence of waging war under section 121, I.P.C., and we sentence each to transportation for life, namely —

Nizam Din, *alias* Dado, No. 1, Chagha, No. 2, Habib, No. 3, Shamman, No. 4, Dilli, No. 5, Pira, No. 6, Manni, No. 7, Gurdit Singh, No. 8, Lal, No. 9, Majha, No. 10, Mahna, No. 13, and Dadu, No. 14.

As required by law, we further direct that all such property as was owned by each of these convicts and as is subject to forfeiture shall be forfeited to Government.

The first five of these were leaders and were in both affairs; their sentences require no commutation. As regards the rest, recommendations to mercy will be made.

45.—THE TRIBUNE CASE

(Lt Col Irwin's Commission)

The accused Kall Nath Roy was the editor of the "Tribune," a daily newspaper published at Lahore with a circulation of from 4,500 to 5,000 copies. He is charged with offences under section 124 A of the Indian Penal Code and Rule 25 of the Defence of India Consolidation Rules, in that he, at Lahore on the 3rd, 4th, 6th, 8th, 9th, 10th and 11th of April, 1919,

uttered sedition by written words and published by written words false reports which he had no reasonable grounds to believe to be true and which were likely to cause fear and alarm to the public, and promote feelings of enmity and hatred among His Majesty's subjects."

He has pleaded not guilty to these charges, and has put in a lengthy written statement, attached to which is a copy of an equally lengthy representation and apology addressed to the Lieutenant-Governor of the Punjab.

It is impossible to compress within the limits of the brief judgment, which is all that is within the scope of the instructions issued to the Commission, a full explication of all the matters which we have had to consider but we shall endeavour to leave no point unmentioned even as we have left no point advanced unconsidered.

Before taking up our discussion of the articles which form the basis of the charges we may first refer briefly to the general law on the subject of sedition.

Among the Indian rulings consulted by us are: I L R. XX All 55 (Amba Parshad's case); 27 P R, 1914 (the "Zamindar" case); 15 P R of 1915 (the "Sher-i Punjab" case); I L R XXXII Bom 112 (Tilak's case); L L R. XXII Bom 152 (the "Pratod" case); 15 Cal W N 141 (the "Karmayogin" case).

These judgments are easily available and we refrain from quoting from them here, but among the English rulings, (some of which incidentally supply powerful commentaries on the employment of the *hartal* and *Satyagraha* methods in general) are Q v John Collins"—3 S. T. 1149—and Q v Sir Francis Biddett," from which we permit ourselves to extract the following pertinent observations. In the first of these, in commenting on the words used in connection with the arrest of Dr Taylor Littledale J said:—You will have to consider whether this publication was or was not a calm and temperate discussion

of the events which had occurred"—and "the people have a right to discuss any grievances that they may have to complain of but they must not do it in a way to excite tumult"

In *Q. V* Sir Francis Burdett—I, S. T. I, the words of Best J were —
 "The liberty of the Press is this, that you may communicate any information that you think proper to communicate by print, that you may point to Government their errors and endeavour to convince them their system of policy is wrong and attended with disadvantage to the country, and that another system of politics would be attended with benefit. But the question always is as to the manner. A question is made whether they show an intention to instruct by appealing to the judgment or to irritate and excite to sedition in other words, whether they appeal to the sense or the passions"

In dealing with the articles of the charge we have carefully considered each of them as a whole, as well as the particular passages on which the prosecution have relied. We have endeavoured to divorce no portion from its context and, where the defence has relied on other articles or passages as explaining the meaning of articles in the charge, we have considered them together. We have borne in mind the particular points urged by counsel for the defence, namely—that the accused is a Bengali, not knowing the vernacular or the temper of the Punjab people well, his work in connection with the War Publicity Committee and so forth, that he is a "journalist," and that the Oriental style of writing may be considered somewhat florid and inflated. We have taken into account the time and place of the writings, the circumstances under which they were written, the sections of the public which the paper would reach, and the class of reader to which they were addressed. We have paid special attention to the ruling reported in 15 Cal W N 141 (cited for the defence)—the—"Karmayogin" case—(*vide* also Rattan Lal, 1909 edition p 185), in which it was laid down that, though the "state of the country" must be taken into consideration, it would not entitle a court to convert an article, not falling within the mischief aimed at by section 124 A into one that does, (p 155) in other words that it is necessary to find that an article is *per se* seditious.

We have considered the definitions of "disaffection," as compared with mere "disapprobation," as discussed by high authority and to such articles concerned with the charge as might be held merely to express disapprobation we shall not here refer.

We have had to guard ourselves against the view that wild and inflammatory writing, published at a time of great popular excitement, can be explained away as "mere rhetoric," we cannot entirely ignore the events which occurred on or about the dates of these articles, and while realising that "intention" is the essence of an offence under section 124 A, I P C we remember the *dictum* that "a man must be taken to intend the natural consequences of what he has done"

With all these considerations before us we may now state the general reasoning on which we have decided to convict the accused under section 124 A I P C

Although there is much which is unexceptional in the writings of the accused yet there is also much that in our opinion undoubtedly tends and was intended to promote disaffection, and we hold strongly that the former cannot either excuse the latter or show that the meaning and intention of the articles and passages, to which we shall refer more particularly below were other than appear on the face of them. Explanations, all more or less ingenious, have been offered of those articles and passages; and some of these we have accepted, but of others we would say generally that we find ourselves unable to carry the process far enough to exonerate the accused. It is unfortunate to say the least of it, that so much and such elaborate explanation of words, of which the ostensible meaning is plain, should be required.

The line generally adopted by the defence in respect of any words complained of has been to say — We admit that on the face of them, these words are open to objection; but look at some subsequent words in the same article or even look at another article in the same issue where we have given expression to sentiments of an entirely different nature. You must read the former in the light of the latter."

This is fallacious reasoning. When the meaning of a passage is obscure or it admits of more than one meaning it is then legitimate to read each passage in the light of another; but when there is no obscurity and the meaning of the passage is plain, this method of reasoning cannot be employed. You may reconcile apparent but you cannot reconcile real inconsistencies.

Again, when a public speaker makes two statements or gives two pieces of advice which are inconsistent with each other and one of which is seditious and one not so, it is possible to call upon the speaker himself to make his choice and to abide by one or the other. But when a public writer in his newspaper makes two statements, or gives two pieces of advice, which are inconsistent with each other and one of which is seditious and one not so, it is the reader who has to choose and if he believes the seditious statement or acts upon the seditious advice the editor cannot escape responsibility by subsequently pointing to the statement or advice which is not seditious. To hold otherwise would make the law relating to libel or sedition a dead letter by providing the would-be libeller or seditious writer with an open and easy escape from the consequences of his words. In the matter of sedition, the part of a journalistic Janus is one which no man can reasonably claim to play.

We now discuss the passages and articles in respect of which a conviction must be registered. We take these in chronological order.

First comes that of the 6th April, 1919 "*Prayer at the Juma Masjid*" It is a news paragraph from a correspondent containing reference to the Delhi Martyrs. The Government *communiqué*, dated the 3rd April, had been published in the "*Tribune*" on the 5th April. The accused, in his written statement, has admitted the use of the word "Martyrs" to be "unfortunate" and "a mistake," but in the issue of the 8th we find a front page paragraph headed "*The Delhi Tragedy - A Memorial Fund*," and in the same issue we have a telegram (dated Delhi, April 6th and published in the issue dated April 8th) from a correspondent, bearing the editorial heading "*Memorial to Delhi Martyrs*." A fund had been started in Delhi called the "Relief and Memorial Fund for the dead and wounded in the Delhi Tragedy." The accused chose to emphasise the Memorial for Martyrs and not the Relief, and the inference from this is plain.

The next article is "*A Feature of yesterday's Demonstration*" in the issue of the 8th April in which occurs a passage of which the obvious meaning is that Government had been endeavouring to "dupe" the people.

Then comes, in the issue of April 8th, some particularly indefensible writing in the article entitled "*Action against Dr. Kitchlew and others*"—and we consider along with it the article "*Action under the Defence of India Act*" in the issue of April 11th. In these articles the editor has definitely asserted that the action of the "Punjab Government was both unjust and unwarranted", and in the latter article it is said that "the Punjab Government has exposed itself to the general criticism at the bar of public opinion." We bear in mind how soon after the appearance of these articles the serious outbreak took place in Amritsar, and also the appropriate remarks on the subject of the Cawnpore mosque incident in P. R. 27 (Criml.) of 1914 (the "Zemindar" case). We are unable to accept the explanation that these articles were unobjectionable, because it was only intended to protest against the use of the Defence of India Act, as being a War measure. Apart from the fact that the Act is still in operation, there is no defence for the violence of the language used, and for the assumption that unwarranted action had been taken.

The leading article of the 9th April is headed "*The Delhi Tragedy*." Much of it is couched in what we consider indefensible language, all sorts of allegations are made against the authorities, and, in spite of the publication of the Government *communiqué* on April 5th, Swami Shradhanand's version of the Delhi incident (containing mention of "savage and inhuman" firing and so forth) is put forward as not having yet been "contradicted by any authority, whose contradiction would carry weight." In connection with this article we have considered the relevant observations in P. R. 15 (Criml.) of 1915, and I. L. R. XXII Bom. 112—and we are unable to accept as of any weight the argument that, on the 5th April the "Leader" newspaper, with a much less carefully

edited version of the Swami story had reached Lahore and that consequently there was no objection to the publication of the *Tribune* article. The defect in this reasoning is too patent to require explication.

Lastly we have the leading article in the issue of the 9th April entitled *Blaming Indiscretion*. The general tone of this article may be gathered from the head line. With attacks on public servants in their private capacity we have nothing to do; but this was an attack on the Head of a Province in his public capacity written at a time (one day before the trouble at Amritsar and Lahore) when as was categorically stated by the accused in this very article the atmosphere was "highly surcharged" and the public mind was in a state of unusual excitement." That this state of mind was well realised by the accused we further see from the leading article of the 11th April, already referred to, which contains the statement that the public have passed and are passing through a period of unusual excitement" and which further criticizes in no measured terms the action taken at Amritsar under the Defence of India Act.

Articles of later date cited by the defence and written after it had obviously been realised by the accused that matters had gone too far cannot avail him, nor can the opinions expressed in the *Servant of India* (issues of April 24th and May 1st) to the effect that the accused is "one of the most level headed men in the country" and "a law abiding citizen."

We convict the accused under section 124 A, I P C. in respect of all the articles and passages discussed above.

As regards the charge under Rule 25 of the Defence of India Consolidation Rules, it is quite arguable that a conviction should rightly be had in respect to the publication of "What Swami Shradhanand saw" in the issue of April 3rd, but in view of the conviction already registered under the ordinary law as contained in section 124 A I P C. we do not deem it necessary to proceed further with the charge under the special enactment.

On the question of sentence we do not think that transportation would be suitable in the present case. The maximum term of imprisonment allowed under the section is three years, and, after taking everything into consideration, we sentence the accused to two years rigorous imprisonment together with a fine of Rs. 1000, or in default, six months' further rigorous imprisonment.

46.—AMRITSAR ASSAULT CASE

(*Attempt to kill Miss Sherwood*)

(MR JUSTICE LESLIE JONES COMMISSION)

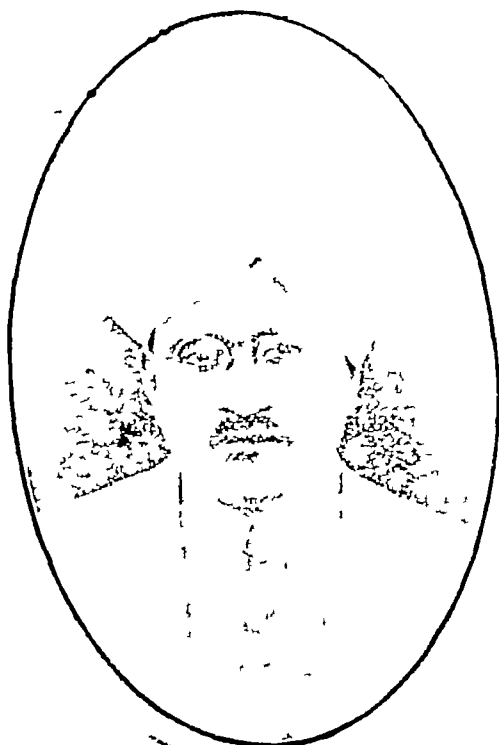
Miss Sherwood is a middle-aged lady who was Superintendent of the Mission School in Amritsar. She is also a Lady Doctor and as such has spent many years working in the city where she was greatly respected.



Dr Saif-ud-Din Kitchew, B A, Ph D,
Bar-at-Law, Amritsar (Sentenced
to transportation for life)



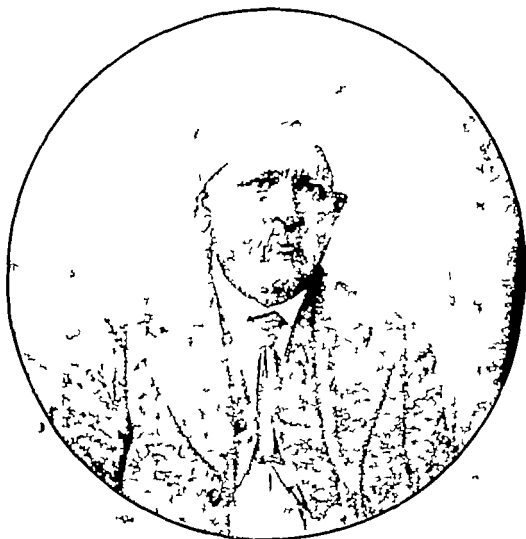
Mr Durr Chaudhary, Bar-at-Law Lahore
(Sentenced to transportation for
life and forfeiture of property)



Dr Satya Pal, B A, M B, Amritsar,
Late Lieutenant in the I M S
(Sentenced to transportation for life).



Mr Kalanath Roy, Editor, *Tribune*
(Sentenced to 2 years' rigorous
imprisonment and Rs. 2,000 fine).



Lala Harkishan Lal, B A , (Cantab) Bar-at Law, Lahore (Sentenced to transportation for life and forfeiture of property)

Her story is briefly that about 1 o'clock on the 10th of April when she was bicycling from one of her schools to another she encountered a mob which raised cries of "*kill her, she is English*" She wheeled round and tried to escape, but took a wrong turning and had to retrace her steps She reached a lane where she was well-known, and thought she would be safe, but the mob overtook her and she was also attacked from the front Being hit on the head with sticks she fell down but got up and ran a little way where she was again felled, being struck with sticks even when she was on the ground Again she got up and tried to enter a house, but the door was slammed in her face. Falling from exhaustion she again struggled to get up but everything seemed to get dark and she thought she had become blind

The evidence deals only with a part of what occurred The witnesses, who are particularly good and have been entirely unshaken in cross examination, prove that towards the end of the chase she was seized by Ahmad Din, No 7, who seized her dress and threw her down. His brother, Jila, No 8 pulled off her hat Then Mangtu, No 3, Mela, No 4, Mangta alias Giddar, No 5, and Lal Chand, No 6, struck her with their fists She got up and staggered on till Wilayati, No 2, caught her by her hair, and having knocked her down took off his shoe and gave her five or six blows on the head She got up and struggled a little further, until she was finally knocked down by Sundar Singh, No 1, who struck her on the head with his *lathis*

On this, the savage mob which had been shouting "*Victory to Kitchlu*," raised the cry of "*she is dead*," and then passed on

Miss Sherwood was afterwards picked up by some Hindu shopkeepers, who took her to a temporary refuge She was conveyed out of the city in the evening where the doctor who then attended her thought that she was still bleeding profusely from the scalp which was extensively wounded If she had not been treated then her injuries would probably have been fatal She has since gone to England in a critical condition

The mob which chased and attacked Miss Sherwood was one of those which were attacking Europeans because they were Europeans, and the city was at the time in the full swing of murderous rebellion

All the accused are convicted of the offences with which they are charged

Some of the prisoners are youths, but at least one of them Wilayati, No. 2 was among the most brutal of a mob whose cruelty it would be difficult to surpass. The crime committed was far worse than most murders, and although Government may perhaps, in the case of some of these offenders, be pleased to exercise its prerogative of mercy, we, as Court of Justice, are not prepared to distinguish, except in the case of Jila, No 8, who is much younger than the rest The sentences are as in the schedule annexed Jila, we consider, should be sent to a reformatory

[Sentences—Seven of the accused Sundar Singh, Wilayat Mangtu Mela Mangta, Lal Chand and Ahmad were sentenced to death and forfeiture of property The eighth Jila was sentenced to transportation for life and forfeiture]

47—NATIONAL BANK MURDER CASE (AMRITSAR)

(Lt Col. Irvine's Commission)

On April 10th 1919 about noon after the arrest of Kitchlew and Satyapal disorder broke out in Amritsar in the course of which an attempt was made to invade the Civil Station by a mob which had to be turned back by fire from troops and police Shortly after this a mob attacked the National Bank situated in the city brutally murdered Mr Stewart, Manager and Mr Scott, Assistant Manager sacked and burnt the Bank and looted the godown which contained cloth and goods to the value of several lakhs of rupees The Chartered and Alliance Banks were subsequently sacked A Mission Hall Church and the Religious Book Society's Depot were also attacked and burnt by the mob There was no reason why these institutions should have been singled out by the mob or their leaders except that, as the evidence shows, they were out to destroy the visible manifestation of British connection with the country

It is unnecessary to labour the point that the salient offence committed in connection with the attack on the National Bank, the facts of which form the main basis of the present charges, was one falling under section 121 I P C and we have only to consider which of the 21 accused now before us were concerned in that attack Certain of the accused could also be convicted under section 302, I P C., but we see no necessity to discriminate, more especially as in circumstances like those before us, there is only one possible penalty for the offence or offences committed

We are not entirely satisfied that Ghulam Hasan Panna (15), was in the actual attack on the Bank but he is proved to have been found in possession of property looted therefrom We convict him and sentence him to 7 years rigorous imprisonment under section 412, I P C. As regards the remaining 20 accused we are clear that they each took an active part in the attack on the Bank. In convicting all of them of an offence under section 121 I P C we would only note that Rattan Chand or Rattu (1) and Bhugga (2) were ringleaders, and initiated the outbreak with most significant promptitude, as soon as the news of the deportation of Kitchlew and Satyapal, whose lieutenants they are called, became known. We, therefore, sentence each of the remaining 20 accused, as set out in the schedule, to death and to the forfeiture of such property as was owned by him at the time of the commission of the offence and as is liable to forfeiture.

We consider the conduct of Muhammad Hussain P W 3, was very creditable throughout

48 —KASUR SUPPLEMENTARY CASE

(Lt Col Irvine's Commission)

On April 12th, at Kasur, a mob, excited by speeches addressed to it on that and the previous day, invaded and wrecked the Railway Station, attacked an incoming train, murdered two warrant officers (Master Gunner Mallet and Conductor Selby), assaulted and injured two officers (Captain Limby, R. E., and Lieut. Munro of the XVIIIth Loyal Regiment) and Corporals Lattson and Gringham of the Queen's Regiment, assaulted Mr and Mrs Sherbourne of the Railway Department—all of whom were travelling in the train, burnt the Post Office and Munsif's Court, endeavoured to free prisoners in the lock up and in the Thana, attacked the Tahsil, and was finally dispersed by fire from the Police. The violence of the mob was directed against the wearers of His Majesty's uniform and against the property of Government, and the existence of a state of insurrection at Kasur requires no demonstration

We have already on April 30th last dealt with fifteen persons who were concerned in one or other of the different phases of the outbreak and we have now had before us forty nine persons similarly charged. The evidence of the approver has been accepted by us as substantially correct, but we have required corroboration of his evidence as against each accused before registering a conviction

By order, dated 24th May 1919, we have acquitted accused Nos 3, 10, 13, 16, 17, 19, 20, 21, 25, 26, 27, 28, 30, 31, 32, 44, 46 and 49, against whom the prosecution evidence produced in Court was plainly inadequate. Of the remainder we also acquit Nos 23, 24, 40, 42, and 45, not being satisfied that any charge against them has been sufficiently proved. We convict the remaining accused, all under section 121, Indian Penal Code, and sentence them as under —

1 Nadir Ali Shah and 2, Dhani Ram—These men were manifestly leaders and fully deserve the sentence of death which we hereby pass upon them

4 Chiragh Din—There is overwhelming identification of this accused, but he is a mere boy of sixteen years of age and the sentence of transportation for life, which is the only sentence save that of death which we can pass upon him, will be accompanied by a recommendation to mercy

5 Allah Din, *alias* Dina, was positively identified by Mr Sherbourne as a man who actually struck at him the Naib Tahsildar also identified him we pass sentence of death

6 Rehlu, is fully identified by six witnesses as having been prominent in the attack on the Sub Divisional Officer's Court. We pass sentence of death, but on account of youth add a recommendation to mercy his age is twenty four

7 Piran Ditta, is fully recognised as having been with Rehlu No 6, he too is sentenced to death, also with a recommendation to mercy on account of youth—he is twenty two years of age

8. Ram Saran Das is amply identified but is a youth of eighteen; sentenced to transportation for life which will be accompanied by a recommendation to mercy.

9. Khushi Muhammad son of Hahi Bakhshi is positively identified by Corporal Battison (whose refusal to be positive about any accused in the former case impressed us very favourably) by P W 12 and P W 28. His age is eighteen years only and we sentence him to transportation for life accompanied by a recommendation to mercy.

11. Nath Ram is fully identified by the approver and by witnesses whom we consider reliable. The approver says that he was in the mob which pursued the Europeans at the Railway Station. We sentence him to death.

12. Diwan is identified as having struck one of the Corporals: he is a youth and we think transportation for life will suffice instead of inflicting the death sentence.

14. Farzand amply identified: he was at the Post Office and also attacked the train. The sentence on him is death.

15. Khuda Dad is recognised by the Naib-Tahsildar and Munaff as having been prominent; he was also seen looting the station. The sentence is death.

18. Panna Lal identified by Corporal Battison and others: he was a passenger by the train and joined the mob when it was stopped at the distant signal. He is young and we sentence him to transportation for life accompanied by a recommendation to mercy.

22. Ganda Singh is well identified by the Inspector of Works (P W 42) and another witness. We sentence him to death.

29. Bishan Singh was wounded and is clearly guilty but he is a boy of seventeen years of age and we sentence him to transportation for life with a recommendation to mercy.

33. Jiwan Singh, we place reliance upon the evidence of the *Lambardar* Bahadar Singh (P W 46) who impressed us very favourably and he is corroborated by P W 47. The part taken by this man does not seem to have been prominent and we think that a sentence of transportation for life will suffice.

34. Khushal Singh is sixty five years of age a feeble old man. But he was aggressive and we find him guilty. In convicting him and passing sentence of transportation for life we add to it a recommendation to mercy.

35. Hira Singh, his case is stronger than that of Khushal Singh and in sentencing him to transportation for life we are not prepared to recommend to mercy.

36. Malgri has a bayonet wound received in the Thahl but we are not satisfied that he was at the station: we sentence him to transportation for life.

37 Santa Singh, is identified beyond all doubt and was present both in the attack on the Thakur and at the City Thana. The sentence is death.

38 Puri, was caught begging in Lahore Bazar concealed under a *bunkha* and with a number of tickets looted from Kaur Station in his possession. Before us he has refused to call evidence and poses as of weak intellect. He answers questions intelligently, however and is plainly not insane. Sentence, transportation for life, coupled with a recommendation to mercy.

39 Ali Muhammad, is an octroi muharrir and was undoubtedly involved. He is only twenty two years of age and we sentence him to transportation for life.

41 Tirath Ram is fully identified and took a prominent part. We sentence him to death.

47 Kheta Ram, was at the station when the warrant officers were murdered, Sentence, death.

48 Allah Bakhsh, also was in the assault on the warrant officers and he too is sentenced to death.

In each case the sentence, as required by law, is accompanied by an order that all such property as was possessed by each accused at the time of the commission of the offence and as is liable to forfeiture, shall be forfeited to Government.

The approver Gul Muhammad is discharged.

49 —AMRITSAR (Mrs Easdon's) CASE

(Mr Justice Leslie Jones' Commission)

Satyapal and Kitchlew were arrested in Amritsar on the 10th April and, in consequence, a *hartal* commenced at about midday. Crowds began to parade the streets and the position became serious near the Municipal Zenana Hospital when wounded men were brought for treatment to Kidar Nath's dispensary opposite. Mrs Easdon the lady doctor in charge, sent away all her out patients, ordered the hospital to be locked, and endeavoured to reassure her in patients. She thought of trying to escape herself but was warned that it would be impossible to do so both by her chaprasi, Hussain Bakhsh, and by Mr Lewis (a cousin of Mrs Benjamin, Sub Assistant Surgeon in the hospital) who had come especially to advise Mrs Easdon to hide and to warn her that nobody could come to her assistance. It is said that having done so he left "to do some urgent work." Mrs Easdon, who was thus left without any protection, except her chaprasi and her female hospital staff, listened to the shouts of the angry mob increasing, and heard cries that Europeans had been murdered. She had the main door locked, ordered Mussummat Mathai, *Dai*, to be sure to lock her door, which was still open, and then went to the upper storey from which she

watched the mob outside. On being told by the hospital servants that she must hide herself as the mob wanted to kill her she ran to the quarters of Mr Benjamin at the other end of the hospital.

Shortly afterwards Mrs Benjamin whom she had sent downstairs to get some milk rushed back with the appalling news that assisted by Muhammad Mathiri the armed mob succeeded in getting into the hospital and that her life was in imminent danger. Mrs Easdon had just had time to hide herself a few steps down an adjoining staircase when the mob which had failed to find her downstairs, rushed up into Mrs Benjamin's room and demanded to know where she was. Mrs Benjamin terrified though she was, swore that Mr Easdon had left the hospital but the mob was not satisfied and in the endeavour to find Mrs Easdon broke open and searched all the cupboards and boxes in Mrs Benjamin's quarters. Mrs Easdon who was within a few feet of the door could hear all that occurred.

When the mob got back to the entrance of the hospital Mr. Mathiri informed them that Mrs Easdon was still inside. The search for her began again but by that time she had hidden her self in a latrine on the roof. Before the mob could find her the news arrived of the burning of the National Bank and, in the hope of loot, the would be murderers dispersed.

Hussein Bakhsh Chapra, who had behaved loyally and bravely throughout then got out of the hospital and returned with a "burka" and a pair of Indian pajamas. Disguised in these and having blackened her feet with ink, Mrs Easdon escaped by a back way to the house of Muhammad Sharif Sub-Inspector of Police who gave her an asylum. She had spent about three hours in the hospital since the mob had first begun to collect.

There are 16 accused. Of these Muhammad Amin No. 13 is a pleader whose house is close to the hospital, and Muhammad Jamil No. 14 is his brother. Muhammad Amin was under great obligations to Mrs Easdon who had attended all his family with great kindness and skill and he was on very friendly terms with her. He had seen her on the roof of the hospital when the mob was being collected and he could not but have heard the shouts when Mrs Benjamin's room was being ransacked. Nevertheless he had preferred to return to his own house and to stay there leaving Mrs Easdon to her fate. Even when the mob had left the hospital he did not go to her assistance. However on the statement of Mrs Easdon as it now stands, there is no evidence against him of actual abetment and we must acquit both him and his brother Muhammad Jamil though their inhuman conduct and base ingratitude have disgraced them for a time.

Accused Nos. 3, 5, 6, 7, 8, 9 and 10 are also acquitted for the reason that the evidence of their participation is not sufficiently reliable to warrant conviction.

Of the remainder, Muhammad Sadiq No. 11, though there is no evidence that he actually entered the hospital, was the man who collected the mob for the attack on it. The leader was called Mr. Lashon, a being a European.

Muhammad Yaqin No. 15, who is the son of Muhammad Amin, and a student in a Mission School, was a true leader of the mob inside the hospital and it was he who made the mob go to the court room to which Mr. Lashon was to be bound. Ameer Mahesh No. 1, Hamid No. 2, Ismail Khan No. 3 and Gama No. 12 are also named as factors in evidence.

Nos. 1, 2, 3, 11, 12 and 15 are all convicted and sentenced to death and to forfeiture.

Mr. M. J. No. 16 is also named as a factor in the mob to enter the hospital and as a factor in the mob to enter the court room and to enter the court room for life and to forfeit.

50 —CHARTERED BANK CASE (A. 11111)

After seeing the National Bank party of the disorderly mob in front of the Chartered Bank, broke the windows, set fire to doors and shutters, threw the beds outside and smashed the furniture and fittings, but were able to find little of value. The knowledge with a D. S. P., Inspector, three sub-inspectors and a hundred constables were only 30 yards away and after the mob had been met with a volley of destruction for half an hour a body of 25 constables under a sub-inspector was sent across to the Bank. Even so they were fortunately in time to save the manager, Mr. Thomson, and Assistant Manager Mr. Ross, against whom the mob had been uttering threats, but who had remained hidden in an upper storey of the building while the mob was occupied below. The sub-inspector tells us that he threatened the mob with his revolver, but it is significant, in view of what happened at the other Bank, that mere threats were sufficient and the police appeared.

Three of the eleven persons originally accused have already been convicted in previous cases and have not been placed before us. Eight are left of these we are not satisfied that, Abdul Aziz (5), Sultan Muhammad (6) and Gaman Mashki (8) are guilty and we acquit them. The guilt of the remaining five (1) Ibrahim, (2) Gaman Dholi, (3) Nabi, (4) Ghauns, (7) Sadhu Singh, we consider adequately proved and we convict them accordingly of an offence under section 121 I. P. C. None of these men were leaders, they are all of low status and appear to have taken subordinate parts. We sentence each, therefore, to transportation for life together with forfeiture of such property as was owned by each at the time of the commission of the offence and as is liable to forfeiture.

A recommendation to mercy will be made on behalf of Ghauns (4) aged 18, on the ground of his youth.

51 - THE PRATAP CASE

(Mr. H. Frontier & Commission).

L. Radha Kishen is the editor of a new paper called the Pratap published at Lahore. He has been placed before a Court on a charge framed under Rule 25 of the Defence of India Act in that on the 2nd, 3rd and 5th of April he published in that new paper (as I circulated) false statement and report which he had no reasonable ground to believe to be true with intent to cause fear and alarm to the public. The prosecution have proved that he published and circulated the following statements relating to the events which occurred at Delhi on 30th March:-

1. "By the evening of 31st March forty Hindus and Mussalmans had been killed."

2. "It cannot be denied that most who were killed or wounded were innocent."

3. "The apprehension of a breach of the peace was not so great as to necessitate firing, and the people threw stones and brickbats at the time when the authorities had already taken the initiative."

The prosecution have also established that each of these statements is false (1) Since 30th March altogether 10 persons only have died as a result of the injuries received. (2) The persons killed were members of a violent and dangerous mob which had made several savage attacks upon the police and military. (3) The military and police did not fire until a very serious breach of the peace had actually taken place and the statement of Mr. Jefferys (P.W. 1) which stands entirely unrefuted shows clearly that had not the Additional District Magistrate ordered the police to fire very great damage to life and property would have taken place.

Lala Radha Kishen's defence consisted of a long written statement and of the evidence of one witness. This evidence clearly proves that Lala Radha Kishen's sole authority for the statement that forty had been killed by 31st March was a postcard received by a friend of his from a person who had chanced to visit Delhi on the 30th. Lala Radha Kishen had therefore no reasonable grounds for believing the statement to be true. He rushed into print without taking the least trouble to ascertain whether this wild rumour was true or not. Without going into the question whether he intended to cause fear and alarm to the public, we are satisfied that the false statements did actually cause fear and alarm to the public. All the arguments addressed to us by counsel were quite wide of the mark. We are not concerned with the abstract question of how much liberty the press should enjoy. We have simply to see whether Rule 25 has been broken. It is no defence to say that other papers published much more alarming accounts of the Delhi riots, nor can it be held that a wild defence

to show that on the 4th April L Radha Kishen published the official *communique* and admitted that there was no confirmation of the news that 40 had been killed. We have taken this half-hearted recantation into account in awarding sentence. We find L Radha Kishen guilty of the offence with which he has been charged, and we convict him accordingly. We sentence him to undergo 18 months' rigorous imprisonment and to pay a fine of Rs 500, or, in default, undergo a further period of six months' rigorous imprisonment.

52.—ROBINSON MURDER CASE (AMRITSAR).

(Lt-Col. Irvine's Commission)

When the mob at Amritsar was repulsed from the Civil Lines at the foot bridge over the railway on April 10th, 1919, part of the crowd turned towards the goods shed and there caught and brutally murdered Guard Robinson.

Of the three men now before us, we are not satisfied that the prosecution has made out a case against the cartmen, Gulam Qadir (1) and Gullu (2), we have acquitted them accordingly.

The third accused, Kanhiya, *alias* Gayu, is, we think, proved to have been one of men from among the mob who actually struck Guard Robinson, we find him guilty of an offence under Section 302, I P C, and sentence him to death, together with forfeiture of such property as was owned by him at the time of the commission of the offence and as is liable to forfeiture.

53.—WAGAH DERAILEMENT CASE (LAHORE DISTRICT)

(Lt-Col. Irvine's Commission)

At the Bisakhi fair held at Maniala village in the Lahore district on April 13th, an impromptu meeting was held, speeches were made attacking Government, and a rising was advocated. That night, in consequence of this conspiracy, Wagah Railway Station was sacked and burnt, telegraph wires were cut, a length of line was taken up and an armoured train was consequently derailed, but there was fortunately no loss of life, the attack was directed solely against Government.

Forty four men from different villages have been placed before us in connection with the conspiracy at Maniala and the events of Wagah station. Although no doubt some plot was hatched at Maniala, the actual evidence of what was said and by whom is so unsatisfactory, vague and indefinite that we cannot safely find any one guilty of the specific offence provided for by section 124—A, I P C. For the rest we have to depend on the evidence of two approvers, one of whom, Satar, we are not prepared to believe. The other, Shahabu, is more trustworthy, but we have decided to require corroboration of his statement as against any one accused before convicting. There is very little corroboration forthcoming, and it is plain that witnesses who know the facts will not come forward. We find only the following —Sulakhan Singh, son of Fauja Singh (1), Vir Singh, son of Thakur Singh (16), Uttam Singh, son of Thakur Singh (20), Joti Singh, son of Lal Singh

(12)—guilty in each case of an offence under section 121 I P C and sentence all four to transportation for life together with forfeiture of such property as was owned by each at the time of the commission of the offence and as is liable to forfeiture

Sulakhian Singh (1) is a havidar-in-the—and he was the leader both at Maniala and in the attack on Wagha. He has an exemplary conduct sheet for his 14 years' service and some remarks about him by the Officer Commanding the Depot of the regiment have been put before us. We find it difficult to account for his behaviour of 13th April and in deciding not to sentence him to death, we have had regard to his past record. As the leader has been sentenced only to the lesser penalty of transportation for life this is also the sentence which we have pronounced on the remaining accused. The two approvers are discharged.

54.—SUPPLEMENTARY GUJRANWALA CASE.

(Mr H Prenter a Commission)

A third batch consisting of 19 persons has been put up before us for trial under sections 121 147 148 A 152, 395, 436 I P C. section 25 Act VIII of 1885 section 149, I L C. As we have remarked in our previous judgments [e.g. No. 8 of 1919] in connection with the Gujranwala riots of April 14th there is no doubt but that the mob was waging war against the King. We have now only to see which of the accused have been proved to have taken an active share in the doings of the mob. We consider that the evidence against the following is insufficient, viz. Nos. 3, 6, 10, 12, 13 and 15 and we accordingly acquit them. We do not find that any of the persons before us to-day were actual leaders of the mob. Several of the real leaders have already been tried, convicted and sentenced. The present case relates chiefly to the rank and file of the rioters. At the same time we find that certain members of this batch were much more active than the others, as they were seen at several of the places where most of the damage was done. Nos. 1, 2, 4, 7, 8, 9, 11, 14, 17, 18 and 19 are of this sort. Accused Nos. 3 and 16 were not quite so active, but they were undoubtedly members of the mob which waged war against the King. No. 17 Anant Ram made a strenuous effort to show that he was present at the railway station as a benevolent person who was trying to feed some poor and hungry passengers. We do not doubt that he was engaged in this work, but the evidence as to his inciting the mob to violence by shouting the usual war cries, and as to his being present in a number of danger spots throughout the day convinces us that he was carried away by his feelings of hatred towards Government and that he did engage in the waging of war. He kept well in the back ground where danger might have been incurred. In short he seems to us to belong to the dangerous class of passive resisters, whose passivity changes into activity either in a moment of excitement or when no personal risk is to be feared.

We convict Nos. 1, 2, 4, 7, 8, 9, 11, 14, 16, 17, 18 and 19, under section 121 I P Code and sentence each to transportation for life and direct that the property

of each, so far as is liable to forfeiture, be forfeited to Government. We recommend Nos. 3 and 16 to mercy as we consider that sentence of 10 years' rigorous imprisonment would suffice.

55 —DHABAN SINGH RIOT CASE —(GUJRANWALA DISTRICT)
(Mr H Frenter's Commission)

The railway station of Dhabansingh, Gujranwala district, was attacked by a large mob at 4 o'clock on the morning of the 16th of April. The office was burned, the safes were looted, and some goods belonging to the travelling public were stolen. Earlier in the night the same mob had burned a railway bridge over the canal at a distance of a mile and a half from the station, had removed two pairs of rails from the permanent way and had severed the telegraph wires in many places. This mob began to collect in the village of Nawan Pind, having been harangued by Gyan Singh and then some of the leaders went to another village, Manawala, and gathered many recruits from it. A considerable number of these rioters have been tried and convicted by special magistrates, and now eleven persons considered to be the ringleaders have been placed before us for trial, charged under sections 121, 147, 124-A, 395, 436 140, I P C

There is good evidence to show that the leaders incited the mob to cut the railway line for the express purpose of preventing the passage of troops, and we have no doubt but that the waging of war was the prime object of the rioters. It only remains to be seen which of these persons were actually engaged in the operations and to find out which of them were the leaders.

The evidence is overwhelming against every one of the accused as to their having taken a most active part in all that was done that night. There is a remarkable lack of even the ordinary enmities that sometimes induce witnesses to make false statements, and all the defence evidence was more than usually worthless. We convict each of the accused under section 121, I. P. C. Gyan Singh, No 8, was undoubtedly the moving spirit of the mob. It was he who preached war in Nawan Pind, and he was one of the two Kambohs we went as emissaries to Manawala village to collect recruits. We regard him as a dangerous man and we sentence him to death. We sentence all the others to transportation for life. We direct that such of the property of each as is liable to forfeiture be forfeited to Government.

56 —CHHEHARTA CASE.—(AMRITSAR DISTRICT)
(Lt-Col Irvine's Commission)

On the night of April 10th, 1919, the Railway Station of Chheharta in Amritsar District was attacked by a mob of villagers, they only broke the lamps on the station itself and then proceeded to break open and loot a goods train which was standing in the yard. None of the twenty accused is identified as having been present on the spot but stolen property was recovered from all except No. 15,

Bichattar Singh, who is acquitted. As regards the rest we have a number of confessions but we do not lay much stress on them as they were made after the property had been recovered and we are not impressed with the evidence of the very ordinary persons put in to testify that they saw certain of accused either going to or coming from the station.

We therefore think it safest to register convictions under section 412, I.P.C. only against these 19 accused. The sentences detailed in full in the schedule will be as under —

Imprisonment till the rising of the Court in the case of No. 16 who is a mere boy and was apparently given a *khan* of cloth by one of the looters thus he threw into a *kheela* and gave up directly the police appeared.

Three years rigorous imprisonment each in the case of Nos. 9, 11 and 19.

Five years rigorous imprisonment each in the case of Nos. 2 and 5.

Seven years rigorous imprisonment each for the remainder.

The lesser sentences are imposed on the ground of the youth of the offenders.

We note that there is no evidence whatsoever against Bichattar Singh (15), a retired Police Sub Inspector who, so far as appears from the record, actually advised the mob to leave the station alone; we find it difficult to understand why he was charged at all and the reasons he has advanced have led us to refer the matter separately to the proper authority.

57—GUJRANWALA LEADERS CASE.

(Mr Justice Broadway's Commission).—

Fifteen persons have been charged before us under sections 131, 131 A, 124 A, 147 I.P.C., 124 A, 323, 436, 506 I.P.C., section 126, Railway Act, section 25, Act XIII of 1885 sections 109, 120, and 149, I.P.C. in connection with a serious outbreak that occurred at Gujranwala on the 14th April, 1919.

It has been proved that on that date, a general *khatra* took place at Gujranwala; a mob proceeded to the Station at about 7.45 A.M. and stopped a train that was about to start to Wazirabad, passengers were prevented from travelling and the guard and driver were assaulted. A bridge near the Garukal on the Wazirabad side was set on fire; telegraph and telephone wires were cut and the Kachhi Bridge on the Lahore side was also set ablaze and the permanent way was damaged, thus practically isolating Gujranwala. Mr Heron, Superintendent of Police, and the Police were assaulted and forced to fire on their assailants. In the meantime a crowd had collected at an open space outside the house of Amar Nath accused (1) where a meeting was held, and when the crowd increased in numbers, an adjournment was made to a place

in the city called the Niyam, where this meeting was continued. At these meetings various speeches were made, reference being made to the Rowlatt Act—Gandhi—and the need for Hindu and Mahomedan unity, while incidents that had taken place in Lahore were also emphasised. While the meeting at the Niyam was in progress, news was received there that some of the mob had been wounded—thereupon the crowd proceeded towards the Civil Station. The Post Office, Tehsil, Dak Bungalow, Courts and Church were set on fire, and an attack was made on the Jail, the Railway Station was burnt and the Goods Shed looted, damage being done to rolling stock as well. All these acts were directed against Government and Europeans, no property belonging to an Indian being in any way touched.

These acts undoubtedly constitute a determined and deliberate waging of war, and we hold accordingly.

The case for the prosecution is that the present accused were members of a conspiracy entered into with the object of overawing Government in connection with the Rowlatt Act and had agreed to carry out their object by the commission of the acts described above.

It is alleged that the people of Gujranwala knew little and cared less about the Rowlatt Act and that on the 4th April certain of the accused decided to start an agitation against this act on the same lines as had been adopted in other parts of the country at the instance of Gandhi. A mass meeting was accordingly convened and held on the evening of the 5th April when the Rowlatt Act was condemned, the Delhi incidents were referred to, and the people were asked to hold a *hartal* on the 6th April.

The proposed *hartal* was held accordingly and passed off without the occurrence of any untoward incidents.

On the 10th April disturbances occurred in Amritsar and Lahore. Brij Bhushan Bhagat, a Barrister at-Law and one of the leading agitators, went to Lahore on the 11th and discovered that a relative of his had been wounded in the riots at that place. This information was published by him on the 12th April, and advantage was taken of a meeting of the "District Congress Committee," held that evening at the house of Amar Nath, accused (1), to propose a second *hartal*. After this meeting, on the evening of the 12th and during the day of the 13th, certain of the accused in consultation with Bhagat agreed that they should follow the example set at Amritsar—burning bridges and cutting telegraph wires.

A private meeting was held in the evening of the 13th at which these matters were considered, and it was decided to hold a *hartal* on the following day and to arrange for the burning of bridges and cutting of telegraph wires, with the result already stated above. In addition to the statement of the approver

that there is ample evidence in support of these allegations which we consider established beyond doubt and we hold that the outrages committed on the 14th April were directly due to the conspiracy entered into on the 12th and 13th.

We are not however satisfied in this case that prior to the 14th April any indictable conspiracy had come into existence and therefore feel constrained to acquit those of the accused who are shown only to have taken part in the proceedings prior to that date.

Turning to the individual cases:—

Amar Nath accused 1 was one of the originators of the agitation against the Rowlatt Act and also took part in the meeting on the 13th, and agreed to and approved of the commission of the proposed acts of violence. He was one of the principal leaders throughout. He spoke at both the meetings on the 14th, drawing particular attention to one of the persons injured in the Lahore riots in such a manner as to inflame the minds of his audience. We find him guilty under section 121 I P C.

Mangal Sen accused 2 was one of the speakers at the meeting on the 5th April and drew special attention to the Delhi incidents, making an impassioned speech. He was at the meeting on the 13th April which was held at his house and though as stated by the approver he at first objected to the proposed acts of violence he ultimately agreed to give his support. He spoke at the meeting outside Amar Nath accused (1)'s house on the 14th arousing resentment against Government. We find him guilty under section 121 I P C.

Hakim Rai accused 3 was chairman at the meeting of the 5th and was also at the meeting of the 13th, but we are not satisfied that he was present when it was agreed to commit acts of violence. He does not appear to have taken any serious part in the incidents on the 14th such as would render him criminally liable. We give him the benefit of the doubt and acquit him.

Lakh Singh accused 4 took an active part in the inception of the agitation against the Rowlatt Act and was present at the meetings of the 12th and 13. On the latter date he is said to have at first opposed the commission of acts of violence but finally agreed. He was seen in several places with the mob on the 14th but appear to have rendered assistance to the authorities on that date. We find him guilty under section 121 I P C.

Masitullah accused 5 was one of the conveners of the meeting of the 5th April, though he was not present at it. He was also at the meeting of the 12th and, though he did not attend the meeting of the 13th we are satisfied that he on other occasions agreed to the commission of acts of violence. On the 14th, he spoke at the meeting outside Amar Nath (1)'s house on Hindu and Mahomedan unity and was also at the Niyain meeting. We find him guilty under section 121 I P C.

Sarab Dyal, accused 6, was one of the conveners of the meeting of the 5th April and seconded a resolution. He was also at the meeting of the 12th as well as that on the 13th. On the 14th he attended at the Niyam meeting but did not speak. We find him guilty under section 121, I P. C.

Lal Aron, accused 7, spoke at the meeting outside Amar Nath accused (1)'s house on the 14th but does not appear to have taken any active part in the previous proceedings and we are not satisfied that his words amounted to an abetment of waging war. We accordingly acquit him.

Dr. Muhammad, accused 8, had apparently no knowledge of what had been going on prior to the 14th April (*vide* approver). On the 14th April, although he addressed the meeting outside the house of Amar Nath, accused 1, he appears to have been rendering assistance to the authorities—helping to put out the fire at the Gurukul bridge and endeavouring to lead sections of the mob back into the city. His speech on Hindu and Mahomedan unity at such a juncture gives rise to a certain amount of suspicion but we think that he is entitled to the benefit of the doubt, and we accordingly acquit him.

Isdur Rahman, accused 9, was one of the conveners of the meeting of the 5th and spoke in place of Matullah (5), but there is practically nothing else against him, and we acquit him.

Jagan Nath, accused 10, had the notice convening the meeting of the 5th printed in Lahore and was present at the meeting. He denies his presence at the meetings of the 12th and 13th, but we have no hesitation in holding that he was present at both, and that his defence evidence is worthless. There is ample evidence to show that on the 14th April he took a very active part in having the shops closed. We are satisfied of his guilt, and convict him under section 121, I P. C.

Mohan Lal, accused 11, was one of the conveners of the meeting of the 5th which he attended. He was also present at the meetings on the 12th and 13 and afterwards told the approver that he had arranged for the cutting of the telegraph wires. He was very prominent in the various events of the 14th April, and we are convinced that he acted as a leader throughout. He was riding dressed in khaki—forcing people to close their shops—at the station preventing passengers from travelling. He was one of those who dragged the driver from the engine. Afterwards he was seen going towards the Gurukul with the mob that set fire to the bridge there, and was also seen leading the mob back towards the station. Later he was seen in the mob that burnt the Dak Bungalow, etc. His guilt has been clearly established, and we convict him under section 121, I P. C.

Mela Ram, accused 12, was one of the conveners of the meeting of the 5th April and spoke at it. He was not at the meetings of the 12th and 13th. We are not satisfied that he took any part in what occurred on the 14th and acquit him.

Chuni Lal accused 13 was at the meetings of the 4th and 5th April and spoke at the latter on the Delhi incidents of which he claimed to be an eye-witness. He did not attend the meetings of the 12th and 13th, but we are satisfied that he agreed with Bhagat to set fire to bridges. He was at the meeting at the Nizam on the 14th and was one of those who prevented passengers from travelling by train and was later one of those who threw stones at the Police at the Railway Station. He was also in the mob that set fire to the Post Office and Dak Bungalow. We find him guilty under section 121 I P C.

Bihari Lal accused 14 is the brother of Mohan Lal (11). He was among those who prevented passengers from travelling and was seen with the mob that set fire to the Gurukul Bridge. He was also seen in the mob that burnt the Dak Bungalow. We find him guilty under section 121, I P C.

Hareli Ram accused 15 was one of the conveners of the meeting of the 5th April and attended it. He was at the meeting of the 13th and on the 14th was seen preventing passengers from travelling. He was one of those who threw stones at the Police and was in the mob at the Post Office which was ablaze. We find him guilty under section 121 I P C.

Of the accused we have found guilty Amar Nath (1) and Mohan Lal (11) took the most active part throughout. Amar Nath's speeches on the 14th made at a time when violence had actually been used and the minds of the people were already inflamed, were calculated to incite them to the commission of still further outrages. Mohan Lal was most active in leading the mob, and we therefore sentence both Amar Nath and Mohan Lal to death. We sentence the other convicted persons to transportation for life.

In the case of all the persons convicted, we further direct that such property belonging to each of them as is liable to forfeiture shall be forfeited to the Crown.

The sentences passed on Labh Singh, Matiallah and Sarab Dyal are the least we are empowered to inflict. We would, however, recommend them to the clemency of Government as we consider that Matiallah and Sarab Dyal were not prepared to go to quite such extremes as their co-conspirators, while Labh Singh evidently repented of his action and endeavoured to render assistance to the authorities.

58.—AMRITSAR GIRLS SCHOOL CASE.

(Lt. Col. Irvine's Commission)

Among the outrages committed in Amritsar on 10th April 1919, the mob attacked and fired the Girls' Mission School, fortunately without discovering the four lady missionaries, who had been hidden by the staff. Mr. Marshall, Police Inspector, had a pequet close by and hearing of the attack on the school hastened there with half his pequet; the mob thereupon fled.

Of the nine men originally charged before us, one Muhammad was withdrawn as he had already been convicted and sentenced in another case, and we have consequently tried only eight. Of these two have been acquitted as the evidence against them was inadequate.

Against the remaining six there is ample evidence and we convict them accordingly of an offence under section 121, I P C, namely —(1) Imam Din, (2) Fazal Din, (3) Muhammad Sultan, (4) Abdur Rahman *alias* Manna, (6) Nanak Chand, (7) Ismail *alias* Phila.

In none of these cases do we consider that a death sentence is called for and we sentence each to transportation for life together with, as required by law, the forfeiture of such property as was owned by each at the time of the commission of the offence, and as is liable to forfeiture. The three last named accused are young and will be recommended for reduction of sentence.

MALAKWAL CASES (59, 60, 61 and 62) (Mr H Prenter's Commission)

In connection with seditious meetings at Malakwal (Gujrat District) followed by a plot to damage the railway lines and derail trains (which proved successful) four batches of accused persons have been placed before us for trial on various charges. With the consent of all the accused we heard the evidence against all concurrently, but we have kept the cases distinct. Five persons were charged in the first batch, six in the second, nine in the third and nine in the fourth. With regard to the first batch, Nos. 1 and 2 were charged under section 124 A I P C, and rules 24 and 25, D of I, and Nos. 3, 4 and 5 under rules 24 and 25, D of I. We have found the evidence against Nos. 3, 4 and 5 rather weak and we accordingly acquit them. Bhog Raj, accused No. 1, is a stranger to Malakwal and the evidence proves beyond doubt that he went to that town for the express purpose not only of bringing the Government into hatred, but of exciting the inhabitants to actual waging of war. The substance of his speeches has been given by several witnesses whom we see no reason to disbelieve. Accused No. 2, Ram Chandra, is a professional agitator who goes about exciting people by his songs. At Malakwal he sang hymns in Sanskrit and lest any should not understand he accompanied his singing with a running commentary in Urdu. His comments on the Rowlatt Bill exceeded all reasonable bounds, and his language was clearly within the limits of section 124-A. We convict accused Nos. 1 and 2 under that section and sentence them to transportation for life.

As regards the second case all the accused were charged merely under section 147, and as we consider that the rioting, if any, was exceedingly trivial, we acquit them. With regard to these persons and also those acquitted in the first case we note that they are employees of the railway and their action in "striking" though it led to no serious stoppage of work and as far as we can see to no dislocation of

traffic & it seems to us worthy of being dealt with by departmental inquiry. Their acquittal in these cases does not in any way absolve them from responsibility for disobedience of orders.

The third and fourth cases differ from the other considerably. The meetings held on 15th and 16th April in Malakwal seem fortunately to have had little or no effect upon the general public, and there was no rioting and extremely little disturbance but a small band of conspirators was encouraged by the speeches and by events that had occurred in neighbouring places and they determined to wage active war against the Government. A small party went on the night of the 16th to the railway line and cut some telegraph wires, and were then joined by some firemen and hunter from the railway station and together these two parties removed a pair of rails. They then dispersed and the damage to the lines was not noticed until the following morning when a passenger train was derailed. Two persons were killed in the wreck and several were injured. In case No 3 the accused have been charged under sections 147-5, Act VIII of 1885, section 149 I P C., except No. 6 (Allah Din) who was charged with abetment of these offences. We find that the following persons were of the party that cut the telegraph wires and we convict them under section 25 Act VIII of 1885:—Nos. 1, 2, 5, 6, 7, 8 and 9. We sentence them to six months rigorous imprisonment each. We acquit Nos. 3 and 4. We have dealt with this case leniently because those who were especially active have been convicted in the fourth case, and the remainder seem to us to have joined in this offence in a very half hearted fashion. Allah Din was merely the instigator and possibly he wished his followers to do a minimum of damage.

In the fourth case the accused are charged under sections 11, 147, 126, Railway Act and 302, I I C., 149, I P C. We find that the body of men who damaged the railway lines were undoubtedly guilty of waging war against the King. The intention was to render the passage of troops impossible and to put a stop to the work of Government. As regards No. 3 (Mangal Sen) we find that the evidence is to a certain extent tainted. We give him the benefit of the doubt and acquit him.

Accused No. 1 and accused 5 were undoubtedly the leaders. Raja Ram (No. 1) was the leader of the wire-cutting party and he induced some of that party to join in damaging the line. Sarwar (No. 5) was the leader of the gang that came from the Railway Station. We think they deserve the extreme penalty. The action of this band of conspirators resulted in the death of two persons. The remaining accused Nos. 2, 4, 6, 7, 8 and 9 were merely the rank and file. We convict Nos. 1, 2, 4, 5, 6, 7, 8, and 9 under section 121 and sentence No. 1 (Raja Ram) and No. 5 (Sarwar) to death. We sentence Nos. 2, 4, 6, 7, 8 and 9 to transportation for life. We direct that such property of accused Nos. 1, 2, 4, 5, 6, 7, 8 and 9 as is liable to forfeiture be forfeited to Government. We note that Raja Ram, Karam Chand, Daulat Ram and Multani have been convicted in two cases.

and we order that their sentences run concurrently. We recommend Multani and Daulat Ram to mercy on account of their youth as we think that 10 years' rigorous imprisonment would suit the case.

The approver Ghulam Ali may be set at liberty.

63.—SUPPLEMENTARY HAFIZABAD CASE

(Mr H Prenter's Commission)

In connection with the rioters who attacked Lieutenant Tatam at Hafizabad Railway Station on 14th April we have found that they were guilty of waging war. A second batch has now been put before us who are alleged to have been active members of the mob. No 7 has already been convicted under section 121 for waging war on the 15th and has been sentenced to transportation for life. The P. P. withdrew the case against him accordingly. We find the evidence very weak against Nos 1, 3, 4, 5, 6, 8 and 9 and we accordingly acquit them. There remains only the case of No 2, Hari Singh. We have good independent evidence that he was one of the mob that attacked Lieutenant Tatam and we have held that this mob's intention was to wage war against Government and that they did so by attacking a military officer. We, therefore, convict Hari Singh under section 121, Indian Penal Code, and sentence him to transportation for life. We direct that such of his property as is liable to forfeiture be forfeited to Government. We note that he was not a ring leader.

64.—SUPPLEMENTARY NATIONAL BANK MURDER CASE

(AMRITSAR)

(Mr H Prenter's Commission)

The Amritsar riot cases have been tried by another Commission. One Jai Ram Singh has been all along noted as an absconder and a reward was promised for his arrest. He was arrested on 3rd June, 1919, and has now been placed before us for trial under sections 121, 147, 302 149, Indian Penal Code.

Quite apart from the evidence of the approver, it has been fully proved by thoroughly independent evidence that Jai Ram Singh was the actual leader of the mob that attacked the National Bank on 12th April, 1919. That mob not only burned and looted the Bank but also murdered Mr Stewart and Mr Scott. We find him guilty under section 121, Indian Penal Code and sentence him to death. We direct that such of his property as is liable to forfeiture be forfeited to Government.

65—SUPPLEMENTARY KASUR CASE. (Mr H Prenter's Commission)

In connection with the rioting at Kasur Railway Station on 12th April, 1919, a large number of men have been convicted under section 11 by the 1st and 2nd Commissions (see cases Nos. 31 and 32) and now 3 persons have been put before us charged under section 121 148 302 306 149 I P C. as having been members of the mob. Dhut Nani Munro very definitely recognizes accused No. 1 as the instigator of the band of persons who attacked him. We think that it would be dangerous to rely on his unsupported evidence as to the identity of this instigator and cannot hold it proved that accused No. 2 was the actual leader of the assault. But we have no doubt that he was one of the mob who attacked the train and killed 2 Europeans and wounded several others.

Accused No. 1 was also a member of the mob. We convict both of these persons under section 121 I P C. and sentence them to death. Accused No. 3 was one of the mob that attacked the Tahsil. He was wounded in the firing that took place. We convict him under section 121 I P C., and sentence him to transportation for life. We direct that such of the property of each accused as is liable to forfeiture be forfeited to Government.

66—MOMAN STATION CASE. (Mr H Prenter's Commission)

On the night of 15th April the Railway Station of Moman was attacked by a mob of some 60 or 70 who first warned the railway staff to go away as the station was going to be burned and then proceeded very methodically to set fire to all the station buildings. Prior to this Harnam Singh had gone round to some of the neighbouring villages preaching open war against the Government and collecting recruits. Three persons, Harnam Singh, Banta Singh and Mian Singh have been put before us for trial under sections 121 147 436, 395 149 I P C. as having been the ring leaders. There is not the least doubt but that Harnam Singh was the moving spirit. A few days ago he was convicted under section 307 I P C. for having made a determined attempt on the life of Mr. Wale at Sangla Hill Station on the 16th April. He is undoubtedly guilty under section 121 I P C. and convicting him under the section we sentence him to death.

Banta Singh and Mian Singh were ring leaders to a lesser extent, and we must give them the credit of not having damaged the railway line. Mian Singh put up an elaborate *alibi* in defence, which we have examined carefully and found to be quite untrue. We convict them under section 121 I P C. and sentence them to transportation for life. As regards all three we direct that such property of each as is liable to forfeiture be forfeited to Government.

67 —AMRITSAR LEADERS' CASE *

*(Mr Justice Broadway's Commission)**(a) Precis of the Case*

For sometime past, certain persons in Amritsar,—several of whom undoubtedly formed their revolutionary ideas during their visits to Germany and other places in Europe, or were members of the notorious defunct Shining Club—have cherished hostile intentions against the British Government, and have sedulously endeavoured to instil the poison in their minds into the hearts of others. These persons have never failed to seize every possible occasion to spread the idea, which they fostered among the public. Meetings were called on every possible opportunity, e.g., on the subject of the issue of platform tickets, on the question of the preservation of the Muhammadan holy places, on the matter of the opening of grain shops, even on the petty complaints of students, etc., etc., at which, under their guidance, the discussions at once assumed a political trend. Under the pretext of holding meetings to protest against the passing of the Rowlatt Act, they succeeded in rousing popular feeling to such a high pitch, by their inflammatory and seditious speeches, that the Ram Naumi festival—on the 9th April, 1919—a purely Hindu religious festival, was converted into a political demonstration, with the result that, when Government found themselves obliged at this juncture to order the deportation of Drs. Kitchlew and Satyapal, their propaganda resulted in an open rebellion and rising against Government.

The serious excesses committed in Amritsar on the 10th April 1919 are too well known to need recapitulation in detail, public buildings were sacked and burnt, railway lines and bridges destroyed and damaged, telegraph communications interrupted, and innocent Europeans brutally assaulted and murdered.

The accused named in the attached list having been found mainly responsible for all that has occurred are herewith sent up to stand their trial.

(b) Supplementary Precis of the Case

The facts of the case are that a criminal conspiracy was formed in Amritsar, in conjunction with conspirators elsewhere, to overawe Government and secure the abandonment of the Rowlatt Act.

The accused before the Commission were members of that conspiracy from the 30th March onwards up to the dates specified in the respective charges.

The conspiracy was formed prior to the 30th March, but inasmuch as the Commission is not competent to try offences committed before that date acts of the conspirators prior thereto will be proved simply to show the nature of the conspiracy.

* The Court was convened on the 2nd of June, 1919. The case started on the 9th of June, 1919 and closed on the 29th of June, 1919. Judgment delivered on the 5th of July, 1919.

and continuity of conduct. In pursuit of the objects of this conspiracy a series of public meetings were held on 31st January 5th February 9th February 11th February 12th February 21st February 22nd February 28th February 3rd March, 29th March 30th March 6th April 17th April and 13th April attended and addressed by various of the conspirators in some of which sedition was uttered and the waging of war abetted.

In addition the conspirators, or some of them published a newspaper called the *Hagf* which in pursuit of the object of the conspiracy published sedition and criminal incitements.

On 6th April a general strike was proclaimed and subsequently also a general strike was proclaimed and maintained. On 6th and 8th April, secret societies were established and on 9th violent and seditious demonstrations were made against Government.

Certain of the conspirators were arrested between the 2nd and 5th April and two were deported on the 10th April and thereupon, under the instigation of accused Nos. 1 and 2 some of the conspirators and others, in pursuit of the objects of the conspiracy broke out and waged war against the King on the 10th April; and remained in a state of war up to and including the 13th April.

Events subsequent to 13th April are not charged against the accused.

During the period from 10th to 13th April Europeans were murdered and assaulted by members of the conspiracy banks were sacked and burnt; the Rail way Station at Amritsar was partly sacked, and several other buildings were also sacked much property destroyed; and the City of Amritsar was held by the conspirators in open defiance of King's authority.

The principal specific facts which will be proved against each particular accused indicating his connection with and activities in the conspiracy are as follows. This list must not be taken as exclusive as it may be deemed advisable to prove further other facts.

Saif ud Din Kitchlew Accused No. 1

1. Speaker at the meeting of 31st January on "Constantinople Chai."

2. Speaker at meeting of 5th February (Rowlatt Bill meeting)—Slightly inflamed speech.

3. Speaker at platform ticket meeting of 5th February—speech petulant in character described by *Free Press* as "passionate"—passages of an exciting character.

4. Speaker at National Library meeting of 9th February Chairman of meeting; divided boycott.

5. Speaker at platform ticket meeting on 11th February—somewhat excitable speech

6. Speaker at Muhammadan trade meeting on 12th February, seized opportunity to incite against Government

7. Speaker at Muhammadan meeting of 21st February re Ansari's speech—virulent effort to inflame religious feeling, inciting to force veiledly

8. Speaker at Annual Muhammadan Education Committee on 22nd February, tried to introduce political matter into speech, but was stopped

9. Speaker at grain shops meeting on 26th February, tried to use it for political purposes —

10. Speaker at Rowlatt Bill protest meeting of 28th February—excitable speech.

11. Speaker at protest meeting at Lahore on 14th March—excitable speech.

12. Speaker at Rowlatt Bill protest meeting of 23rd March—highly inflammatory and dangerous

13. Convener of, and speaker at, protest meeting of 29th March—excessively inflammatory and seditious

14. Convener of the protest meeting of 30th March. President also—inflammatory speech, resulting in restriction order

15. Spoke at two meetings in Jullundur on 1st and 2nd April in inflammatory manner

16. Advocated incitement of villagers and the preparation and use of bombs

17. Attended several secret meetings at own house between 30th March and 10th April in which there were discussions as to creating trouble on the frontier and in villages, burning of European bungalows and murders of Europeans, boycott of courts and British trade and the spreading of false rumours

18. One of conspirators who decided on 5th April 1919 to have *hartal* on 6th and hold meeting of 6th

19. Stopped cricket match on 6th as part of *hartal*

20. Attended Home Rule *Satyagraha* meeting on 6th at own house

21. Attended meeting of 8th April to organize fraternization during Ram Naumi and spoke on subject, and subscribed for purpose. Made President of *Satyagraha Sabha*

22. Opened house for recording vows of *Satyagraha* on 9th and arranged for printing of forms.

Joined Ram Naumi demonstrations, shouting political cries, garlanded by mob, and started procession off Held meeting in Gura Bazar to discuss situation. Proclaimed 'Shamshali Kitchlew

23. Held violent secret meeting at own house on evening of 9th.

24. Deported on morning of 10th; gave instructions to followers to create disturbance and take revenge.

Satyapal, Accused No 2

1. Speaker at first Rowlatt Bill meeting on 5th February 1919; spoke in inflammatory fashion

2. Speaker at first platform ticket meeting on 5th February 1919, displaying bitter racial feeling

3. Wrote on 12th February 1919 to Mr Bennet threatening "you will witness in the city discontent and agitation the like of which you have never witnessed"

(Note—Determined attempt to murder Mr Bennett was made on 10th April 1919)

4. Speaker at second platform ticket meeting on 11th February 1919—highly inflammatory speech, full of intense racial feeling

5. Wrote hysterical and abusive letter on 17th February to Traffic Manager North Western Railway threatening discontent disaffection and agitation; and published this letter broadcast on 20th February

6. Spoke at Muhammadan Education Meeting of 22nd February somewhat bitter tone

7. Spoke at grain shops meeting on 26th February but not objectionably—tried to restrain Kitchlew

8. Speaker at Rowlatt Bill protest meeting on 28th February portions of speech inflammatory of racial feeling

9. Speaker at Rowlatt Bill protest meeting on 23rd March—speech vitriolic and inflammatory in highest degree Served with restriction order in consequence on 31st March

10. Speaker at Rate payers meeting on the 23rd March—meeting to protest against official chairman of Municipal Committee.

11. Speaker at protest meeting of 29th March—sedition and inflammatory in the extreme Convener of protest meeting

12. Convener of protest meeting of 30th March.

13 Writer of seditious article in the *Parlab*.

14 Attended several meetings at house of No 1 between 30th March and 10th April in which there were discussions as to creating trouble on the Frontier and in villages, burning European bungalows and murdering Europeans, boycott of courts and British goods, and the spreading of false rumours

15 Attended Home Rule *satyagraha* meeting at house of No 1

16 Attended secret meeting on 8th April 1919 to organize fraternization during Ram Naumi

17 Joined Ram Naumi procession on 9th April 1919, and distributed sweetmeats at common *chhabil* to mob. Joined meeting in Guru Bazar to discuss situation

18 Deported on morning of 10th and gave instructions to followers to create disturbance and take revenge

Badi-ul-Islam Khan, Accused No 3.

1 Speaker at Rowlatt Bill protest meeting of 28th February—inflammatory and inciting racial feeling

2 Chairman at Rowlatt Bill protest meeting on 23rd March, but is not reported as speaking

3 Chairman of gigantic meeting of 6th April—the last before the outbreak, but appears, both at beginning and end of meeting, to have advised the preservation of order

4 Attended several meetings at house of No 1 between 30th March and 10th April in which there were discussions as to creating trouble on the Frontier and in villages, burning European bungalows and murdering Europeans, boycott of courts and British trade and spreading false rumours

5. One of the conspirators who arranged on 5th April 1919 to hold *hartal* on 6th April 1919 and the meeting of 6th

6 Attended secret meeting on 8th April 1919 to organize fraternization during Ram Naumi and spoke on subject

Hafiz Muhammad Bashir, Accused No. 4

1 Speaker at meeting of 31st January—speech not reported

2 Speaker at meeting of 5th February—speech not reported

3 Speaker at meeting of 12th February—speech not objectionable

4. Speaker at meeting of 21st February—speech not objectionable.

5 Appears to have taken command when Nos 1 2 5 8 9 restricted; convened meeting for 2nd April recited inflammatory poem there.

6 Recited inflammatory poem in meeting of 6th April; moved harmless resolution.

7 As (14) again taken over No. 2.

8 One of conspirators who arranged on 5th April 1919 to hold *khatol* on 6th April 1919 and meeting of 6th.

9. Attended Home Rule *Satyagraha* meeting on 11th April 1919 at house of No. 1

10. Attended secret meeting on 8th April 1919 to organize fraternization during Ram Navami; and spoke in seditious and violent manner. Made Secretary of Satyagraha Sabha and proposed political processions, driving of internees round city to incite populace

11. Headed a big mob on 9th April 1919 in Guru Bazar and harangued them in violent terms

12. Attended violent secret meeting at accused No. 1 house on 9th and spoke in an extremely violent fashion

13. On receipt of news of deportations, swore to endure Government tyranny no longer. Proclaimed *khatol* in 10th and sent Kattan Chand to demand release of Nos 1 and 2. Joined mob returning from Civil Lines at National Bank and incited it to take revenge. Present at sack of Bank

14. Went to mob at Khurdin mosque on 10th and incited it to further violence; then paraded on horseback through city with accused No. 7. Went on to own house where inflammatory speeches delivered to mob and deputed Chaudhri Bagga to form volunteer patrols for the night

15. On 11th addressed mob at Khurdin mosque in inflammatory fashion; advised mob to disobey Deputy Commissioner's order re removal of bodies and led tumultuous mob with bodies to graveyard

16. On evening of 11th refused to stop *khatol* unless Nos 1 and 2 were liberated and an amnesty granted with reference to affair on 10th

17. At meeting of conspirators on 12th where public meeting suggested and proposed collection of arms

18. Ordered the meeting at Jalyanwala Bagh for 13th did not attend himself. Insisted on meeting after proclamation of Martial Law

Kotu Mal Accused No. 3

1. Speaker at R. W. B. Bill meeting of 5th February—of a somewhat inflammatory nature.

2 Speaker at National Library meeting of 9th February and subscribed R 50 p r mense n "to coach the masses in politics" 6

3 Speaker at gun shops meeting of 26th February—slightly intemperate.

4 Speaker at Rowlatt Bill protest meeting of 28th February—not very objectionable

5 Chairman for short period at Rowlatt Bill meeting of 23rd March

6 Speaker at rate-payers' meeting of 23rd March Chairman also—poor report

7 Convener of protest meeting of 29th March also spoke, but not much in his speech

8 Convener of protest meeting of 30th March prised in a most inflammatory manner, resulting in restriction order

9 As (11) against accused No 2

10 Attended Home Rule *Satyagraha* meeting on 7th April 1919 at house of No 1

11 Attended secret meeting on 8th April 1919 to organize fraternization during Ram Navami

Narain Das, Khanna, Accused No 6

1 Present at meeting of 21st January

2 Speaker at first meeting (Rowlatt Bill) on 5th February—speech not reported

3 Speaker at Rowlatt Bill meeting of 26th February, advocating following the lines of Bengali agitation

4 Convener of protest meeting of 30th March—does not appear to have spoken

5 Convener of protest meeting of 30th March

6 Speaker at meeting of 6th April, but speech not reported

7 Originally proposed starting the *Wagat*

8 As (14) against accused (2)

9 Deputed to arrange for causing trouble on Frontier—treasurer and collector or the Anna Fund of conspiracy

10 One of conspirators who arranged on 5th April 1919 to hold *hartal* and big meeting of 6th

11. On 11th accompanied funeral procession from Khairdin's mosque.

Gurdial Singh, Accused No 7

1. Speaker at protest meeting of 6th April last—speech not reported.
2. One of conspirator who arranged on 5th April to hold *hukumat* and big meeting of 6th.
3. On 10th joined mob at Khurdin mosque and said had been with mob at Railway bridge inciting them on. Paraded thereafter with No. 4 on horseback through city. Went on to house of accused No. 4 and delivered inflammatory speech to mob out till in evening.

Luubhaura Vaud Accused No 8

1. Speaker at protest meeting of 30th March—highly seditious and inflammatory resulting in restriction order.
2. As (14) against accused No. 2.
3. Attended Home Rule *Satyagraha* meeting at house of No. 1 on 7th April 1919.
4. Attended secret meeting on 8th April 1919 to organize fraternization during Ram Navmi and spoke on subject.
5. Drafted *Satyagraha* and Home Rule League vow on 9th.
6. Joined meeting in Gura Bazar on 9th to discuss situation.
7. On 10th approved of murders, etc. and went to house of No. 4 in evening where addressed mob in inflammatory fashion.
8. At meeting of conspirators on 12th suggested public meeting. At this time collection of arms proposed.
9. Interviewed No. 4 on 13th re meeting.

Dina Nath Accused No 9

1. Editor of the *Hayat*: writer of a series of inflammatory articles therein and publisher of violent cartoons.
2. Speaker at Rowlatt Bill protest meeting on 23rd March—highly seditious speech.
3. Speaker at Rate payers' meeting on 23rd March—poor report.
4. Speaker at protest meeting on 29th March—very seditious and inciting racial feeling.
5. Speaker at protest meeting on 30th March—highly seditious and inciting racial feeling, resulting in restriction order.

6 Spoke in inflammatory manner at two meetings in Tallundia on 1st and 2nd April

7 As (14) against accused No. 2

8 Stopped and did not join 6th part of 1919

9 Attended Home Rule Society meeting at house of No. 1 on 7th April 1919

10 After 1st meeting on 8th April 1919 to organize fraternization during Ram Navami and police on subject

Joined Ram Navami demonstration by street political committee was prohibited by taking and started procession

Joined No. 2 in distributing sweets etc. to mob to calm them

Joined meeting in Gurm Bazar to discuss situation

11 Attended silent protest meeting on 10th in house of accused No. 1

12 No trace of his activities on 10th

13 On 11th accompanied No. 4 to Khurdin's mosque and addressed mob there in inflammatory manner, and joined funeral procession, supported No. 4 in refusing to stop *har tal* except on condition of liberation of Nos. 1 and 2 and amnesty for 10th

Gurbakhsh Rai, Accused No. 10

1 Speaker at Rowlett Bill protest meeting of 23rd March, but was inaudible

2 Speaker at meeting on 12th April at Hindu Sabha School, exhorted audience not to obey Government and proposed a fresh *har tal*

3 As (14) against accused No. 2

4 Joined mob sacking the Chartered Bank on 10th April and went and reported to accused No. 4, went with No. 4 to incite mob at Khurdin's mosque proceeded to house of No. 1 where violent speeches delivered to crowd

5 At meeting of conspirators on 12th where public meeting and collection of arms proposed

6 Attended and spoke at the meeting of 13th. Advised crowd not to disperse when ordered by military

Ghulam Nabi, Accused No. 11

1 As (14) against accused No. 2

2 Attended Home Rule *Satyagraha* meeting at house of No. 1 on 7th April 1919.

3 Attended secret meeting on 8th April 1919 to organize fraternization during Ram Naumi

4 Organized body of boys dressed as Turkish soldiers with black crescent flag for Ram Naumi on 9th

5 On 11th accompanied funeral procession from Khairdin mosque

6 At meeting of conspirators on 12th when public meeting and collection of arms were proposed—suggested collection of arms.

Ghulam Muhammad Accused No. 12

1 Recited inflammatory poem in meeting of 30th March

2 Recited inflammatory poem in meeting of 6th April

3 As (14) again accused No. 2

4 Attended Home Rule *Satyagraha* meeting, at house of No. 1 on 7th April 1919.

5 Attended secret meeting on 8th April 1919 to organize fraternization during Ram Naumi and spoke on subject

6 Arranged on 9th April 1919 for printing of *Satyagraha* and Home Rule League vols. Joined Ram Naumi demonstration. Joined meeting in Gura Bazar to discuss situation

7 Attended violent secret meeting on evening of 9th in house of accused No. 1 and recited highly inflammatory verses.

8 On 10th joined mob attacking Chartered Bank and told No. 4 he was sorry he had arrived too late at the National Bank. Went with No. 4 to incite mob at Khairdin's mosque to further violence; and returned to No. 4's house where inflammatory speeches were addressed to mob

9 Delivered on 11th inflammatory poem to mob at Khairdin's mosque and accompanied funeral procession

Supported No. 4 in refusing to stop *hartal* except on condition of liberation of Nos. 1 and 2 and amnesty for 10th.

10 At meeting of conspirators on 12th where public meeting and collection of arms proposed

Abdul Aziz Accused No. 13

1 On 11th offered to take the *Satyagraha* vow

2 At meeting of conspirators on 12th when suggested public meeting should be held, accused proposed collection of arms.

3. On 13th took *Satyagraha* vow Went to see accused No 4 who directed public meeting should be held in Jallianwalla Bagh Was present and spoke at this meeting, which was broken up by military.

Muhammad Ismail, Accused No 14.

1. Recited inflammatory poem in meeting of 6th April
- 2 As (14) against accused No 2
- 3 Composed seditious verses, placarded throughout city on 9th

Moti Ram Mehra, Accused No 15

- 1 Convener of protest meeting of 29th March, but does not appear to have spoken
- 2 Convener of protest meeting of 30th March
- 3 As (14) against accused No. 2
4. Deputed to arrange for causing trouble on the Frontier Treasurer of, and collector for, Anna Fund of conspirators

The following co conspirators have been indicted separately for waging war and murder on 10th April

A brief summary of their activities is attached for reference

Rattan Chand

- 1 Recited poem at meeting of 30th March
- 2 Speaker at meeting of 6th April
- 3 One of conspirators who arranged on 5th April to hold *hartal* and big meeting on 6th
- 4 Headed the Ram Naumi demonstration on 9th and opened common *chhabil* for mob
- 5 Headed mob on 10th going to Civil Lines under instructions of accused No 4 to demand release of accused Nos 1 and 2 led mob back when fired on into city. Sack of Post Office, present and a participator in murders at Banks
- 6 Accompanied funeral procession on 11th from Khairdin's mosque Supported accused No 4 in refusing to stop *hartal* except on condition of liberation of accused Nos. 1 and 2 and amnesty for 10th

*Chandhari Bugga Mal*1. Financial the *Haji*

One of conspirators who arranged on 5th April, 1919, to hold *kartal* and big meeting on 6th. Arranged for drum-beaters to announce *kartal*.

3. Used threats to secure *kartal* on 6th.

4. Headed Kam Naumi demonstration on 9th. Led part of mob on to Guru Bazar. Joined meeting in Guru Bazar to discuss situation.

5. Attended violent secret meeting in evening of 9th in house of accused No. 1.

6. Headed mob on 10th going to Civil Lines to demand release of accused Nos. 1 and 2. Led mob back when fired on into city. Sack of Post Office and present at Bank murders.

Reported to accused No. 4 and went with him to incite mob at Khairdin's mosque to further violence.

Returned to house of accused No. 4 and addressed mob outside in violent manner. Deputed to form volunteer party for city at night.

7. On 11th accompanied funeral procession from Khairdin's mosque. Supported accused No. 4 in refusing to stop *kartal* unless accused Nos. 1 and 2 were liberated and amnesty for 10th given.

A number of other conspirators have been separately indicted for various offences including murder, waging war, sedition and arson, and convicted.

The following minor conspirators to whom reference will be made in evidence have been sent for trial before ^{the} summary Courts —

1. Nur ul Hasan	} Mainly engaged in reciting seditious poems in one or other of meetings.
2. Abdul Wahid	
3. Dhaja Nand.	
4. Girdhari Lal	

(c) Judgment.

Dr. Saif ud Din, Kitchlew, Dr. Satyapal, Badar ul Islam, Ali Khan, Mohammad Bashir, Kotu Mal, Narain Dass Khanna, Gurdial Singh, Anu Bhawan Nand, Dina Nath Gurbakhsh Rai, Ghulam Nabi, Ghulam Mohammad, Abdul Aziz, Mohammad Iqbal and Moti Ram Mehra, fifteen persons in all, have been sent up for trial charged with offence under sections 121 A, 121

124 A 396 147 302, 326, 506, 426 and 124 A 147 ^{436, 302} 109 506, I P C. in

connection with the recent disturbances in Amritsar.

The allegation against these fifteen persons is that they were the leaders of the whole movement which culminated, on the 10th April, in acts of waging war

Briefly stated the case for the prosecution is that a criminal conspiracy was formed in Amritsar, in conjunction with conspirators elsewhere, to overawe Government and secure the abandonment of the Rowlatt Acts, that this criminal conspiracy was in existence on the 30th March, 1919, and that these fifteen persons were then members of, or subsequently (up to the 13th April 1919,) joined it

The events that occurred at Amritsar on the 10th April last are too well known to require any detailed description. Drs Kitchlew and Satyapal, accused 1 and 2, were deported at 10 A.M. on that date—the news of their deportation was quickly taken to the city, a *hartal* was promptly organised and a mob started to go to the Deputy Commissioner's bungalow in the Civil Station to demand the release of the two deportees

At the railway footbridge this mob was met by a small picquet of troops. The mob attacked this picquet with stones and brick-bats and had driven it back some 100 yards or so when Mr Connor, Additional District Magistrate, arrived on the scene. He endeavoured to stop the mob but failed, and ordered the picquet to fire. This checked the mob and soon after the picquet was reinforced by Mr Plomer, D S P, with a *posse* of armed Police

A section of this mob attacked the Railway Goods shed, murdered Guard Robinson and assaulted Mr. Bennett, Station Superintendent. Near the Rego Bridge Sergeant Rowlands, Cantonment Electrician, was brutally beaten to death and the telegraph office was attacked—other sections of the mob attempted to force their way over the Railway Road Bridge and the District Magistrate was compelled to give orders to fire on them

In the city the National Bank was burnt and looted—Messrs Stewart and Scott being murdered. The Alliance Bank was sacked and Mr Thompson murdered, and attack was made on the Chartered Bank. The Religious Book Society's Book Depot, the Town Hall and the Indian Christian Church were burnt. Attacks were made on the Normal Girls' School and the Zenana Hospital, the Lady Doctor Mrs Easdon having a narrow escape while Miss Sherwood was brutally and badly beaten.

The city itself was in the hands of the insurgents till the 13th April. That these acts constituted a deliberate and most determined waging of war cannot be disputed. Indeed the learned Counsel for the accused made no attempt at urging that war was not waged, and we have no hesitation in holding that war was waged on the 10th April

Mr Hassan Imam, who addressed us on behalf of all the accused with the exception of Narain Dass Khanna, accused 6, and Gurdial Singh, accused 7,

filed an application objecting to the jurisdiction of the Court. He did not, however address us at any length in support of this application and the impression we received was that he did not seriously press it. In any event we are unable to see any force in the objection. Mr Hassan Imam next read out extracts from the speeches made by various non-official members of the Imperial Legislative Council during the debate on the Rwallt Bill and contended that nothing in the speeches alleged to have been made by his clients approached the violence and invective with which the non-official members of the Council had condemned the proposed measures, while His Excellency the Viceroy had neither reproof censured nor ruled out of order any of the said members. He contended that the members of the Imperial Legislative Council were really on trial.

Whether or not the said non-official members of Council are in any way responsible for the action of the accused is a matter that is not before us and with which we are in no way concerned. We think, however that there is force in Mr Herbert's contention that speeches made in a solemn assembly and addressed to gentlemen of high intellectual abilities, cannot be compared with or put in the same category as speeches (even if more moderate in tone) made at meetings at which the audience consisted in the main of persons of little or no education, and in which appeals were made not to the *minds* but to the *passions* of such audiences.

Beyond eulogising these speeches or of the non-official members in most eloquent terms Mr Hassan Imam did not say very much.

He scarcely discussed the law involved in the case and only dealt briefly with the individual cases against his clients. He did however attack the statement of P W I Hans Raj (an approver) and gave the usual warnings as to the danger of accepting the evidence of an accomplice without corroboration on material points. With regard to the statement of this witness, we say at once, that, after giving our most careful consideration to his statement before us, and one made by him as a confession before Mr Seymour Magistrate 1st Class, on the 23rd and 24th April (brought on to the record at the instance of Satyapal accused 2) and after bearing in mind the warnings referred to above we have arrived at the conclusion that Hans Raj has endeavoured to tell his story as fully as he was capable of doing and has not deliberately made any false statement. That he has been occasionally confused is apparent but this is not surprising considering the number of persons he had to deal with (a good many more than the accused in this case) and we have given the accused concerned the fullest benefit of any such confusion of ideas, dates or names.

In the main details of his story we regard him as worthy of credence. Not a single one of these accused has been able to show any valid reasons why Hans Raj should falsely implicate him and we have no hesitation in holding

that the attempts made to prove him to be a misappropriator of money and drunkard and debruchee have signally failed. The defence obviously tried to prove too much and their witnesses on this point we regard as utterly worthless.

In addition to the oral evidence the prosecution have placed on record reports of speeches made by the various accused at various meetings held between the 31st January, 1919 and 6th April, 1919. No charge has been laid in reference to the speeches made prior to the 30th March, 1919—they have, however, been referred to as showing that the accused or some of them have been systematically doing their utmost to bring the Government, established by law in British India, into hatred and contempt and have convened meetings on any and every pretext, at which, while the object of the particular meeting was by no means objectionable, advantage has been taken to sow the seed of sedition in the minds of the people. In this judgment, it is not necessary to refer in detail to the various speeches in question. Suffice it to say that we are satisfied that the speeches were calculated to bring, and were made with the intention of bringing, the Government established by law in British India into hatred and contempt, and that there was a Criminal Conspiracy (which was in existence on the 30th March) having as its object the dissemination of sedition.

For the prosecution it is alleged that the object of this Criminal Conspiracy was to overcome the Government and bring about the abandonment of the Rowlatt Bill, and, if we were to accept the statement of the approver Hans Raj on the point, the matter would be clear enough—for he says that the “passive resistance” or *Satyagraha* movement was a mere cloak for active resistance and that violence was contemplated by the conspirators. It may be that this is true but inasmuch as this statement does not appear in the confession made by him on the 23rd and 24th April we think it would not be safe to take it into account as against the accused persons. We, therefore, hold that the object of the Criminal Conspiracy was the dissemination of sedition.

Now the speeches at the various meetings dwelt constantly on the tyranny of Government and its harsh and repressive measures favouring the British at the expense of the Indians. Hindus and Mahomedans were called on to unite, so as to present a joint front to the Government particularly in respect of the Rowlatt Acts.

We entirely agree with Mr Hassan Imam that Hindu and Mahomedan unity is a thing to be desired and worked for—if the object, however, is that they should unite in order to be one in their hatred and contempt for Government, *such an object* must be admitted to be reprehensible.

There can be no doubt that one of the objects for creating “contempt” for Government was to prepare the minds of the people for the reception of the *Satyagraha* movement—for “contempt” for a Government may induce people to

defy its mandates and the *Satyagraha* vow clearly shows that laws passed by Government are to be disobeyed. Mr Ha san Imam admitted that if two or more persons agreed to take this vow they became guilty of an offence under Section 120-A, I 1 C. That the result of the speeches at these various meetings was to rouse excitement in the people was admitted by Mr Aziz Ahmad who, in the course of his able address on behalf of Gurdial Singh accused 7 contended that the out break on the 10th April was due to the deportation of two of the "idols of the people" at a time when excitement was daily increasing.

We think this view is correct and that the disturbances of the 10th April were indeed the result of this excitement which had been created and fed by certain members of the Criminal Conspiracy. Ex P 44 a manuscript notice affixed to the Clock Tower on the 6th April shows that some at least of the populace had been roused to such a pitch as to call on their fellow citizens "to die and kill." How far each of the accused can be held responsible for the disturbances is, however another matter and we therefore, proceed to take up the individual cases.

Before doing so we should state that at none of the various meetings were the Rowlatt Bill or Acts explained to the people present and on one occasion when a request was made that it should be translated the President, a Barrister said it was a difficult task but one which Dina Nath accused 9, would perform—Dina Nath accused 9, spoke after this but did not offer any explanation or translate the measures. Indeed throughout the trial he has maintained that he knew no English!

Further at all the meetings the people were given to understand that the Rowlatt Acts were actually in force in Amritsar and throughout India.

Coming now to the case of:—

Accused No 1 —Dr Saif ud Din Kitchlew —We find that he was undoubtedly known to Hans Raj approver. He has been concerned in practically every meeting at Amritsar since the 31st January 1919, and was a prominent figure at the meetings at Jullundur on the 1st and 2nd of April 1919. His speeches were undoubtedly seditious and calculated to bring Government into hatred and contempt. Indeed two of his own witnesses characterise the speeches made by him at Jullundur as inflammatory.

We are however unable to see that he actually incited people to wage war. As we have said above we think it safer not to accept Hans Raj's statement that Dr Kitchlew told him on the morning of the 10th to take revenge. Similarly we find that no mention was made by Hans Raj in his confession of the very important meeting on the 30th March at this accused's house and we therefore feel constrained to rule out that portion of his evidence. We think it has been proved that meetings were held on the 7th and 8th April at Dr Kitchlew's house. There is direct corroboration of the meeting of the 8th, at the same time no agreement to wage war appears to have been arrived at these meetings. He was treated as a

popular hero on the 9th at the Ram Naumi and was clearly regarded as a leader. He was present at the meeting on the night of the 9th April at his house at which there was some discussion regarding the use of force but Hans Raj states that Dr Kitchlew protested by reminding Bashir (4) of his vow. He undoubtedly was a prominent figure in the *Satyagraha* movement, the headquarters of which were at his house, and he also organised both the *hartals* on the 30th March and 6th April, 1919 and was instrumental in stopping the Cricket Match on the morning of the 6th April. We find him guilty of being a member of a Criminal Conspiracy under Section 124 A, $\frac{124-A}{120-B}$, I P C. His offence is an extremely serious one and we feel that the only sentence we can pass is that of transportation for life and we direct accordingly.

Accused No 2 — Dr Satyapal—The case against Dr Satyapal is very similar to that against Dr Kitchlew. He started the platform ticket agitation—legitimate in itself—but used by him and his fellow conspirators to further the objects of the Conspiracy. The letters which he addressed to the Railway authorities in this connection were extremely intemperate. Until he was restricted he was a prominent figure at most of the meetings at which his speeches were as seditious as those made by Dr Kitchlew. He was one of the conveners of the meeting of the 30th March, but did not attend it owing to his having been restricted. He continued a member of the conspiracy, being present at the meetings of the leaders on the 7th and 8th April at Dr. Kitchlew's house. He has no enmity of any kind with Hans Raj and his assertion that Hans Raj's social position was so low that he did not associate with him is manifestly absurd. It is clear that he was regarded in the same light as Dr. Kitchlew as a popular hero and he shared the honours accorded to Dr. Kitchlew at the Ram Naumi. We find him guilty under Section $\frac{124 A}{120 B}$ I P. C., and sentence him to transportation for life.

Accused No 3.—Badrul Islam Ali Khan—There is no doubt that this accused was present at the meeting of 28th February, 23rd March and 6th April, 1919. Hans Raj names him as one of those present on the 5th April at the cricket match and on the 8th April at the leaders' meeting. He was not, however, mentioned in the confession as present on the 8th April at the leaders' meeting. His speeches at the meetings were moderate. We are inclined to think that the members of conspiracy were endeavouring to get him to join them but we are not satisfied that he did actually join. We give him the benefit of the doubt and acquit him.

Accused No 4 — Dr Muhammad Bashir—This accused was present at several of the meetings and was clearly a member of the Criminal Conspiracy. He took a prominent part in the Ram Naumi procession and addressed Dr. Kitchlew in the Guru Bazar in inflammatory terms. He was at the meetings at Dr Kitchlew's house on the 7th, 8th and 9th April. On the 10th April it was from him that Hans Raj and others took their orders. He was present at the attack on the National Bank and incited the mob to take revenge for those injured by the firing. The

evidence of Kesho Ram and Dholan Dass as well as that of Hans Raj leave no room for doubt that he was regarded as a leader by the people from the 10th onwards. He was prominent in insisting on the funeral procession proceeding to the Jalyanwala Bagh on the 11th and when Kesho Ram and others summoned him he refused to go and insisted on their coming to his house where Ratto and Begga also attended. He also organised the meeting on the 13th April though he did not attend. We regard his defence as worthless and have no doubt that he was a member of the Criminal Conspiracy and that he also waged war and we find him guilty under Section 124 A and 121 I P C. We can see no justification for passing any sentence other than the extreme one and sentence him to death. Such property as belongs to him and is liable to forfeiture will be forfeited to the Crown.

Accused No 5 — Kohn Mal — He was present at most of the meetings, including that at Dr. Kitchlew's house on the 8th April. His speech at the meeting of the 5th February clearly indicated his seditious views, and his subsequent activities satisfy us in that he was acting in concert with Drs. Kitchlew and Satyapal. His defence evidence does not help him and we find him guilty under Section ^{124 A}
120-B Indian Penal Code. We think he played a minor part and that a severe sentence is not called for. We accordingly sentence him to 3 years' rigorous imprisonment, including three months' solitary confinement.

Accused No 6 — Narain Dass K'hanna — This accused was present at most of the meetings and was a convener of some. He interested himself in trying to get the *Flag* printed showing his connection with Dina Nath accused (9). According to the approver he took an active part in proclaiming the *Akhal* of the 6th April on the evening of the 5th. Mr. Puri laid great stress on the defence produced as to Narain Dass being at a Lodge meeting from 6-15 P.M. to 10 P.M. on the 5th. We see no reason to doubt the correctness in the main of this defence evidence, but do not regard it as seriously affecting the statement of Hans Raj for in his confession Hans Raj does not say that Narain Dass actually took part in the proclamation work and we think he is making a mistake in the statement before us. We may say that we do not believe he went to the Lodge meeting at 5.30 P.M. He is alleged to have been deputed to spread sedition on the Frontier at a meeting on the 30th March. We have, however, already given our reasons for ruling out this portion of the approver's statement. He was present at the meeting of the 6th April. We believe he was a member of the Criminal Conspiracy but we are not satisfied that he took any part in the events subsequent to the 9th April, and convict him under Section ^{124 A}
120-B Indian Penal Code sentencing him, as in the case of Kohn Mal (5) to 3 years' rigorous imprisonment, including 3 months' solitary confinement.

Accused No 7 — Gurdial Singh — This accused was present at the meeting of the 6th April but we are not satisfied that he joined the conspiracy. His actions

on the 10th April, as deposed to by the Deputy Commissioner, indicate that he was supporting the authorities to the best of his power and at some risk to himself. Hans Raj does not attribute any acts to him, merely saying that Gurdial Singh had told Bashir (4) that he had done what he could on the 10th. Mr Herbert did not press the case against him and we acquit him.

Accused No 8—Anu Bhawan Nand—This accused appears to have come to Amritsar towards the end of March and was at the meeting of the 30th March at which he delivered an inflammatory and seditious speech, which resulted in his being restricted. He was present at the meetings of the 7th and 8th April at Dr Kitchlew's house and was with Dr Kitchlew in the Guru Bazar on the 9th April. His connection with the Conspiracy is we consider perfectly clear. According to the statement of the approver this accused was consulted by him and others and expressed his approval of the murders of Europeans committed on the 10th. He also suggested a meeting on the 12th April as a means of keeping up the excitement and translated certain resolutions it was proposed to put before this meeting. On the 13th April, he is said to have provided a "Vow" form signed by Abdul Aziz. We see no reason for disbelieving Hans Raj whose statements with regard to this accused have been consistent throughout. No sort of enmity has been alleged, and his defence evidence is of no value. We find him guilty under section $\frac{124-A}{120 B}$ and 121 I. P. C., and sentence him to transportation for life, directing that such property as belongs to him and is liable to forfeiture be forfeited to the Crown.

Accused No 9.—Dina Nath—In addition to the evidence of the approver there is abundant evidence to show that the accused was a member of the Criminal Conspiracy. He was undoubtedly very closely connected with the publication of the "Waqt," a vernacular newspaper, which we consider was the organ of the conspiracy. He was present at most of the meetings and his speeches were invariably seditious. While his cartoons and letter press in the "Waqt" were clearly intended to create hatred and contempt for Government. He was present at the meetings on the 7th and 8th April and was with Dr Kitchlew on the 9th April. On the 11th he is said to have delivered an inflammatory speech at Khair Din's Mosque. He was at Bashir (4)'s house when Kesho Ram and Dholan Dass went there, and was one of those who did not support the proposal made by Kesho Ram and others to end the *hartal*. His defence evidence does not help him. Indeed one of his witnesses says that Dina Nath's character is not above suspicion. Having regard to his activities in connection with the object of the Conspiracy and after the 10th April we think that he is guilty of an offence under section 121, I. P. C., as well as under section $\frac{124-A}{120 B}$ I. P. C., and we sentence him to transportation for life and direct that such property as belongs to him and is liable to forfeiture be forfeited to the Crown.

Accused No 10—Dr. Gurbakhsh Rai—This accused was present at the meeting of the 23rd March but was not present at any of the other meetings. On the

10th April he was seen by the approver near the Chartered Bank and went with him to the house of Bashir (4). He admits having drafted resolutions Ex P 8 for the meeting on the 12th at which he also spoke using violent language. He also was present and spoke at the meeting of the 13th which was dispersed by the Military. A number of "Vow" forms were found on the search of his house. His close connection with Hans Raj is shown by the recovery of Ex P 8 (Resolutions) from Hans Raj and the approver also corroborated as to this accused's presence at the meeting of the 13th. His defence is worthless.

We find him guilty under sections $\frac{124 A}{120-B}$ and 121 I P C. and sentence him to transportation for life directing that such property as belongs to him and is liable to forfeiture be forfeited to the Crown.

Accused No 11 — Ghulam Aali — The statement of Hans Raj made before us is not quite consistent with the confession so far as this accused is concerned. Though not impressed by his defence evidence we have doubts as to his complicity in the conspiracy and the events that followed. Giving him the benefit of these doubts, we acquit him.

Accused No 12 — Ghulam Muhammad — In addition to the approver's evidence, there is ample material to show that this accused was a member of the Criminal Conspiracy. He was at the meetings of the 30th March and 6th April and at Dr. Kitchlew's house on 8th April. He was with Hans Raj on the 9th as well as at the Guru Bazar with Dr. Kitchlew. He was also at Dr. Kitchlew's house on the evening of the 9th. On the 10th April he met Hans Raj near the Chartered Bank and accompanied him and Gurbakhsh Rai to the house of Bashir (4). He made an inflammatory speech at Khair Din's Mosque on the 11th and took part in arranging the meeting of the 12th. His defence evidence is worthless. We find him guilty under section $\frac{124 A}{120-B}$ and section 121 I P C. and sentence him to transportation for life and direct that such property as belongs to him and is liable to forfeiture be forfeited to the Crown.

Accused No 13 — Abdul Aziz — This accused first appears on the scene on the 11th April when he is said to have met Hans Raj and expressed a desire to take the "Vow". He also took part on the 12th in arranging for the meeting of that day — and took the "Vow" at the house of Anu Bhawan Nand (8). He was present at the meeting of the 13th as to which Hans Raj is corroborated by the boy Brij Lal (P W 52) whose evidence we regard as reliable. He spoke at this meeting in support of Resolution 2 of Ex P 8. As we are bound to take judicial notice of the fact that a state of rebellion existed at Amritsar at the time, as declared by the Governor General we find him technically guilty of an offence under section 121 I P C. and are forced to sentence him to transportation for life with forfeiture of such property belonging to him as is liable to forfeiture. We, however, recommend him most strongly to the clemency of Government as we are of opinion that a very light sentence would suffice.

Accused No. 14 —Muhammad Ismail.—This accused recited a poem at the meeting of April the 6th, which we, however, do not regard as of any serious import. He is alleged to have been present at the meetings of the 7th and 8th April, but we are not satisfied as to his having been there, inasmuch as he was not mentioned in Hans Raj's confession. We acquit him.

Accused No. 15 —Moti Ram, Mehra.—This accused is alleged to have convened the meetings of the 29th and 30th March. He also is said to have been present at the meetings of the leaders at Dr. Kitchlew's house on the evening of the 30th March, when he was deputed to go to the Frontier. As to this, however, we have already ruled out the approver's statement, and we think that there may be some doubt as to the identity of this accused.

We, accordingly, acquit him.

68.—LAHORE LEADERS' CASE *

(*Mr. Justice Leslie Jones' Commission*).

(a) First Precis of Lahore Case

The accused before the Commission are eleven in number, namely .—

1. Lala Harkishen Lal	7. M. Habibullah Khan
2. Pandit Rambhaji Datt.	8. Karam Chand Hateshi
3. Lala Duni Chand	9. S. Mohsin Shah.
4. Lala Dharam Das Suri.	10. M. Allah Din
5. Doctor Gokal Chand Naurang.	11. Mota Singh.
6. Lala Mathra Pershad	

A measure for dealing with the apprehension and trial of persons accused of anarchical and revolutionary crime, when a state of such crime was considered to exist, based on the recommendations of the Rowlatt Commission, was under the consideration of the Government of India.

This measure was introduced into the Imperial Council on the 6th February, 1919.

In order, by the show of agitation against the measure, to induce the Government of India to withdraw it, certain of the accused conspired with others to hold a protest meeting in Lahore on February 4th.

This meeting was convened by the accused, Rambhaji Datt and Duni Chand, was attended by the accused Dharam Das Suri, Rambhaji Datt, Duni Chand, Gokal Chand, Habibullah and S. Mohsin Shah and was addressed among others by the accused Rambhaji Datt, Dharam Das Suri, Gokal Chand, Habibullah and S. Mohsin

*The Court was convened on the 14th of May, 1919. The case started on the 17th of May, 1919, and closed on the 24th of June, 1919. Judgment delivered on the 5th of July, 1919.

and addresses of an inflammatory and seditious nature further misrepresenting the scope and objects of the Rowlett Act were delivered by the accused Rambhaji Datt, Dhum Dis Suri, Gopal Chandra Mahra Parshad, Habibulla Khan and Karam Chandra Hiteshi with the intention of exciting disaffection and hostility against the Government and with the knowledge that such incitement would lead to disorder, rioting and the waging of war against the King.

Prohibitions against the holding of processions with a view to preserve the peace were issued by the Superintendent of Police, Lahore. In spite of these prohibitions mobs of an unruly, temperamental and riotous nature with inflammatory flags and other symbols marched to the Bradlaugh Hall with the active connivance and encouragement of certain of the accused.

Inside and outside the Bradlaugh Hall seditious and inflammatory cries were uttered. British Officers in uniform and other Europeans were openly insulted by members of the riotous assembly and the mob was complimented on its "orderly" behaviour by the accused Habibulla Khan.

As a result of the incitements conveyed in the speeches of the accused above mentioned and others, members of the said assembly on dispersal paraded through a part of Lahore in a riotous, tumultuous and seditious manner.

On the 9th April in pursuance of the conspiracy to excite disaffection and feelings of enmity against Government and on the occasion of the Ram Navami procession the accused Rambhaji Datt, Gopal Chandra Dharma Dis Suri, and Duni Chandra and others encouraged the fraternization of Hindus and Mohammedans against the Government as by law established.

On the 10th April the Government of the Punjab, with a view to maintaining peace and order prevented the ingress of one of the conspirators by name Gandhi into the province and on the same date ordered the deportation of two other conspirators of an Anarist by name Kitchlew and Satyapal. These precautionary measures of Government for the preservation of peace and order were seized upon by the conspirators as a signal to wage war against the King.

In Anarist, Europeans were brutally murdered, their property burnt and otherwise looted and destroyed. In Lahore, on the receipt of the news and in conjunction with the rising in Anarist and elsewhere large mobs incited by the previous seditious and inflammatory utterances and acts of the accused and others rose in rebellion against the King. Acts of war were committed on the Upper Mall, in India Bazar, at Mochi Gate and at the Lahori Gate and the mobs waging war were dispersed by fire. On the 10th during the riots on the Mall the accused Duni Chandra demanded the liberation of one prisoner arrested.

Among the persons conspicuous at the Lahori Gate were the accused Rambhaji Datt and Duni Chandra, and at Mochi Gate accused S. Mohsin Shah.

On the 11th April in pursuance of the object of the conspiracy a general strike or *hartal* was again proclaimed which continued for some days. On the same day rioters and seditious mobs paraded the city of Lahore in a posture of war and inflammatory notices were posted throughout the city.

A tumultuous, riotous and seditious mob assembled at the Badshahi mosque. The said mob included the accused Rambhaji Datt Duni Chand, Harkishen Lal Dharm Das Suri, Gokal Chand Naurang S. Mohsin Shah, M Allah Din and Mota Singh and was addressed in a seditious and inflammatory manner by the accused M Allah Din Mota Singh and Rambhaji Datt. On the proposal of Duni Chand and Rambhaji Datt the said mob elected a Committee of a revolutionary character to conduct a general strike control the revolutionary movement and to advise those in rebellion and hostility to the King as to the line of action which should be adopted.

The said revolutionary Committee included the following accused :—Harkishen Lal, Duni Chand Dharam Das Suri Gokal Chand Naurang Habibulla Khan S Mohsin Shah, M Allah Din and Mota Singh ; and a subscription of Rs. 1000 was made by Harkishen Lal for the purpose of a general strike and *Langurs* were opened for the free rationing of the revolutionary mobs. The said Committee further attempted to dictate terms to Government as a condition upon which they would declare a cessation of the general strike and rebellion, and particularly Rambhaji Datt and Duni Chand attempted to make terms.

At the end of this gathering crowds walked the city shouting seditious words, destroying portraits of the King and Queen and announcing that the King was dead.

On the 12th April rioters mob assembled near the Fort.

A meeting of rioters at the instance of the accused Rambhaji Datt and Duni Chand assembled in the Badshahi mosque. This riotous and seditious meeting assaulted Inspector Chaudhri Ali Ganhar. It was addressed, in a seditious and inflammatory manner by Rambhaji Datt and Duni Chand, and a new Committee was formed including the accused Harkishen Lal Rambhaji Datt, Duni Chand, Dharm Das Suri, Gokal Chand Habibulla Khan Mohsin Shah for the same purpose as the committee of the 11th.

On the same day Gokal Chand, Rambhaji Datt and Duni Chand dictated terms to Government for the stoppage of the general strike and rebellion and insulted loyal citizens.

The riotous and seditious mob, on leaving the Badshahi mosque, attacked forces of His Majesty at Hira Mandi and were dispersed.

Order was partially restored by the Military occupation of the city on the 12th and 13th April.

(b) Second Precis of Lahore Case

In continuation of my note of 5th instant in connection with the request of the accused in the Lahore Conspiracy Case to have the charges against them made more explicit, as they profess some inability to understand the charges as framed, I have the honour to forward herewith the following statement of the principal particular acts committed by each accused, indicating his connection with the conspiracy of which he was a member between the 30th March and 13th April, and indicating in what way he furthered the objects of the conspiracy, the objects of that conspiracy being —

- (a) to obtain the repeal of the Rowlatt Act by illegal and criminal means ,
- (b) to wage war against the King ,
- (c) to commit other criminal offences as indicated in the charges against the accused

In re Harkishen Lal —

- (1) Convener of meeting on the 6th April in Bradlaugh Hall ,
 - (2) Present in tumultuous meeting in Badshahi Mosque on 11th April ,
- In re Appointed a member of the Popular Revolutionary Committee
- Subscribed Rs 1,000 to the funds for the maintenance of a General Strike ,
- (3) Appointed member of new Revolutionary Committee at Badshahi Mosque on 12th April
 - (4) Present in tumultuous and inflammatory gathering in Town Hall on 13th April

In re Rambhaya Dutt (accused No 2) —

- (1) Advertised as speaker for meeting of 4th February
- (2) Speaker at such meeting in inflammatory fashion
- (3) Speaker at meeting of 9th March, advocating passive resistance in inflammatory manner
- (4) Convener of meeting for 30th March
- (5) Convener of meeting for 6th April, chairman of such meeting and addressed it in inflammatory manner
- (6) Took part in the Ram Naumi procession on the 9th April for political purposes

(7) Was member of a tumultuous meeting war against the King at Lahori Gate on 10th April

(8) Addressed a meeting in the early inflammatory fashion at Pishahi Mosque on the 11th April Dictated terms to Government on which order would be received.

Admission to a public trial

(9) Addressed a meeting in Pishahi Mosque on 12th April in presence of a number of the new Revolutionary Committee on 12th and dictated the terms of the order which would be received

(10) Took part in tumultuous and inflammatory gathering in Town Hall on 13th April

In re Durr Chaudhary (No 3) —

- (1) Convener of a meeting in the early
- (2) Speaker at a meeting in the early
- (3) Convener of meeting on 4th March
- (4) Convener of meeting on 5th March
- (5) Convener of meeting on 6th April in the early
- (6) In the early
- (7) Took part in Ram Narayan on 9th April for sedition propaganda

(8) Was member of a tumultuous meeting war against the King at Lahori Gate on 10th April

(9) Participated in tumultuous meeting in Pishahi Mosque on 11th April and was speaker in the early Revolutionary Committee. Was one of the persons who dictated terms to Government

(10) Convener of meeting in Pishahi Mosque on 12th, addressed it as a member of new Revolutionary Committee and dictated terms to Government.

(11) Took active part in tumultuous and inflammatory gathering in Town Hall on 13th April.

In re Dharm Das Srivastava (revised No 4) —

(1) Advertised as speaker for meeting of 4th February and addressed same in a somewhat inflammatory manner

(3). Convened meeting for 30th March

(4) Present at meeting of 6th April and openly encouraged defiance of law by congratulating mob on its procession conducted in defiance of prohibition.

(5) Made member of Revolutionary Committee on 11th April.

(6) Made member of Revolutionary Committee on 12th April.

In re Karam Chand Hateshi (accused No 8) —

(1) Attended meeting of 6th April and gave utterance to a very inflammatory poem

(2) Urged servants, etc. to strike against working for Europeans.

In re S Mohsin Shah (accused No 9) —

(1). Advertised speaker for 4th February and attended meeting

(2). Attended meeting of 6th April; addressed overflow audience in inflammatory manner

(3) Was member of riotous mob at Mochi Gate on 10th April.

(4) Attended Badshahi Mosque meeting on 11th April supporting accused No. 3 and made member of Revolutionary Committee

(5). Made member of Revolutionary Committee on 12th April.

In re Maulvi Allah Din (accused No 10) —

(1) Attended Badshahi Mosque meeting on 11th and addressed crowd in inflammatory fashion.

(2) Took active part in tumultuous gathering of 13th April in Town Hall

In re Mota Singh (accused No 11) —

(1) Delivered inflammatory speech in Badshahi Mosque on 11th April and made member of Revolutionary Committee

T P ELLIS.

The 7th June 1919

In reply to the reverse the précis of the case gives in detail the particular acts against the accused and it is difficult to understand what further details are required by the accused

It may be explained to the accused that they are charged with Criminal Conspiracy

Such a conspiracy existed before the 30th March, but in as much as the commissions are not empowered to try offences committed prior to 30th March, acts committed by them in the course of such conspiracy are not *charged* against them. They are charged only with the acts they each committed during the period between the 30th March and 13th April, and acts prior to or subsequent to that period are being proved merely to establish the continuity of their conduct.

The primary object of this conspiracy was to secure the repeal of the Rowlatt Act by illegal means, which is an offence under Section 120—A (2), the accused before the commission are, however, alleged to have proceeded further than this, and to have conspired either among themselves or with others within the conspiracy to —

- (a) procure the repeal of the Rowlatt Act by *criminal* means
- (b) commit a series of Criminal Acts, such as sedition, etc
- (c) to Wage War against the King.

These said conspiracies are punishable under Sections 120—B and 121—A, Indian Penal Code

In addition thereto, the accused are alleged to have committed or abetted certain Criminal Acts, and to have taken certain action in pursuit of the objects of such conspiracies

The charges have been so framed as to indicate the dates on which each accused committed such criminal acts or took such action in pursuit of the conspiracy during the period between the 30th March and 13th April

Being members of a conspiracy, each accused is responsible for the acts of every other conspirator, whether before the Commission or not, committed in pursuit of the common object of the conspiracy, whether they were committed prior to or subsequent to the date on which such accused joined the conspiracy or did any act in pursuance of the common objects of the conspiracy.

In order to enable the accused to understand the individual case against each, a statement of the criminal acts and other actions against each will be forwarded at the earliest opportunity

It must be distinctly understood, however, that the charge against each accused is not limited to the particular acts committed by himself, but extends to all acts committed by other conspirators in the pursuit of the common object, and that even if it be found that the particular acts of an accused are not in themselves criminal, he is responsible for the criminal acts of others in the conspiracy and committed in pursuit of the object of each conspiracy

The 5th June, 1919

T P ELLIS

(c). Judgment.

HITHERTO in dealing with cases under the Ordinances of 1919, we have confined ourselves to brief recitals of the facts as found. We think however that although not bound by law to write any judgment it is only right that we should deal at some length with the present case and this because the trial and arguments have lasted well over a month some 700 witnesses have been examined, and many questions of law and fact are involved of which the bare decision, if unsupported by some detailed explanation might hardly be considered sufficient. Our views on certain questions of jurisdiction which have been raised will be found on the record.

In Lahore the public agitation against the Rowlatt Bills began with a protest meeting held at the Bradlaugh Hall on the 4th of February 1919. This was organised by the Indian Association and convened by Duni Chand, the Secretary. Speeches were made by Mr Manohar Lal, Rambhaji Dutt, Gokal Chand, Dharm Das and others.

The second Bill was referred to Select Committee on the 10th of February and on the 1st of March Mr Gandhi published his manifesto including his *Satyagraha* vow. A second protest meeting was then held at the Bradlaugh Hall on the 9th of March. Dr Hitchlew of Amritsar, Rambhaji Dutt, Gokal Chand, Mr Saunders and Habibullah addressed the meeting. The second Bill was passed on the 18th of March and on the 26th Mr Gandhi's message of the 23rd was published in Lahore. This was the message which advocated fasting and suspension of business on the 30th. A third protest meeting was accordingly fixed for that day but was not held as the date of the demonstration was postponed by Mr Gandhi to the 6th of April. A *hartal* however was observed in Delhi on the 30th and in the riot which ensued the mob had to be fired upon and some lives were lost. On the 6th of April [there was a complete *hartal* in Lahore, extending even to Muzang and Bighbanpura. As a natural consequence and in spite of the fact that processions had been forbidden, a crowd collected and threatened to become unmanageable. The authorities had the situation in hand and nothing serious happened. The advertised meeting was held in the Bradlaugh Hall that afternoon and was addressed by several speakers including Rambhaji Dutt and Gokal Chand. Great pains had been taken to popularise this meeting, the names of 30 conveners had been advertised, and the number of those attending was so great that an overflow meeting had to be held outside.

Business was resumed as usual on the 7th. On the 9th of April the annual Ram Naumi procession was held, at which speeches were made advocating Hindu and Muhammadan unity. On the afternoon of the 10th, news arrived of the Amritsar disturbances and the murder of Europeans, and also of Mr Gandhi's arrest. A fresh *hartal* was started at once. On the evening of the 10th, a large mob advanced down the Mall and had to be dispersed by firing both on the Mall and at

the Lohari Gate. On the morning of the 11th, a mass meeting of Hindus and Musalmans was held in the Badshahi Mosque, and when this broke up in the evening, it degenerated into a disorderly and mischievous rabble and marched through the streets shouting among other cries that the King was dead and destroying pictures of Their Majesties. On the 12th, the crowd once more assembled in the Badshahi Mosque and began the proceedings by driving out and beating an Inspector of the C. I. D., who was fortunate to escape with his life. After listening to some speeches and electing a committee, they marched through the city and came into conflict with the authorities at the Hira Mandi and had to be dispersed by firing.

The remaining incidents relate to various meetings and committees concerning the *hartal*, which continued in Anarkali until the 17th and in the city until the 18th when it was finally ended by orders passed under Martial Law.

Such are the main facts and the prosecution sets out to combine and connect these facts with the accused in such a way as to show that there was a conspiracy to secure the repeal of the Rowlatt Act by criminal means. The defence has asked us to believe that there was no sort of organization of the *hartal*, and that every individual shop-keeper in Lahore, Muzang and Baghbanpura decided of his own accord that he must close his shop as a protest. As disproving this contention, Exhibit P 28 removed from the Gumbt Bazar on the 3rd of April, is produced to show that pressure was being brought to bear in the city. It runs as follows —

“ Consider a while

“ If the mountain of calamity be about to fall on your motherland, and you do not render a bit of assistance to your country—who would be such a wretch as would not join in the mournful state of his country by closing his shop and observing a fast this (next) Sunday

“ May God cast them into Hell who do not close their business this (next) Sunday, and do not keep a fast ”

Similar and much more violent posters are produced which were found in various parts of the city between the 3rd and 15th, four having been so found on the 6th and one of these at the Bradlaugh Hall. This is Exhibit P 18

“ 1. That which we apprehended has happened. The future of India in falling has assumed the form of the Rowlatt Bill

“ 2. There is confusion in every town, province and throughout the Empire. Is this the law or the tremour of an earthquake?

“ 3. To practise tyranny and to give it the name of love, what a fine trick is this of the civilization of the West!

“ 4. This pitcher of the East was full of the honey of loyalty, and now its sweetness has become bitter to the British

5. Mahatma and Hin has raised a thousand cries and lamentations, but could not cure Government of its oldracy
6. Their argument had no effect on Vincent though Jinnah mechanit face and Sapru struck his head a great deal
7. In vain have we rubbed our foreheads for years in the Council Chamber. Now we are going to search for Gandhi's threshold."

Consider His reliance is placed on the fact that 10,000 copies of Gandhi's message were ordered by the Indian Association to which several of the accused belong and of which Dani Chand and the Sutarv and also on the fact that, as explained by Jhagpal Tandon D.W. "copies of this message were published broadcast" in the city. These it is urged must have been the copies ordered by the Association. It is further stated that it was far from being spontaneous, and that this is shown by the presence of witnesses for the prosecution but also by the naturalness of the fact that these were for the defence such as that of D.W. 52 — "I have met who Gandhi is. He has cost me my livelihood. The *kartal* having thus been brought out and a large crowd having collected in the Bradlough Hall people were made which it is urged, were calculated to inflame the gathering whose temper was shown by the hissing of C.I.D. officers, the perpetual shouting of "Gandhi ki Jai" "Shahidan ki Jai," "Tilak ki Jai" and "*Hartal* karne walon ki Jai." A resolution was proposed expressing sympathy with the innocent persons shot without justification at Delhi. Rambhrij Dutt, the President, who previously urged the arrest of those who had organised and those who attended the meeting, preached the observance of the *kartal* and explained that it was a deliberate threat to Government, or to use his own words that it meant "Saying to our rulers, Remove our sufferings or we close our shops, suspend our business and we ourselves starve." The meeting broke up before sunset and is said to have proceeded to the city crying "Hai Hai Rowlatt Bill" and "Hai Hai George mar gaya." On the way it burnt explanatory copies of the Rowlatt Act, which had been distributed by the Publicity Committee.

While the temper of the people was still in a dangerous condition, the annual Ram Navami procession was held and largely attended by Muhammadans. Speeches were made in which stress was laid on Hindu Muhammadan unity. On this occasion this laudible object can, it is urged, have only been preached as meaning unity against the Government. Several of the accused joined in the procession and three made speeches.

On the following day the news of the Amritsar outrages and of the arrest of Mr Gandhi arrived. Shops were shut and crowds insisted on their being shut and this, it is said, was the natural development of the foregoing agitation in support of Mr Gandhi's crusade. In the same way the rabble, which advanced down the Mall and had to be twice fired upon was the natural result of the campaign organised and started by these men.

On the following day, an enormous crowd of Hindus and Muhammadans collected in the Shahi Mosque inside the gate of which a banner was hung bearing the inscription "The king who practises tyranny cuts his own roots and mouth." This meeting of 25,000 people had been organised, it is said by the conspirators as is shown by the speech of Rambhoy Dutt telling the crowd at the Lohari Gate on the 10th to disperse but to come to the mosque on the following day. Whether these men were asked to go by the Deputy Commissioner to put an end to the mass meeting or not, it is urged that they most certainly did not attempt to do so but deliberately promoted and continued the *hartal* and collected money for *langar* *khannas* (free kitchens) to ensure that continuance. The crowd was addressed from the pulpit by Rambhoy Dutt and others and was told to stand and face death if necessary and to come to the mosque on the following day. After the speech of Rambhoy Dutt a railway Hindu, named Balwant Singh was carried into the mosque shouting that there had been a mutiny in cantonments, and that he had killed a number of British soldiers with his own hand. He was followed by Harkishan Lal, Duni Chand and Dharam Das who were carried to the pulpit on the shoulders of the people. More speeches were made and a committee of management for the *hartal* was elected. As the result of this orgy of mob oratory, the rabble left the mosque headed by hooligans carrying sticks and marched through the city shouting seditious cries and destroying pictures of Their Majesties. On the following day the mob reassembled, as arranged by Duni Chand, and the proceedings were even more lawless than before. An Inspector of the C. I. D. was beaten and driven out and when Duni Chand and his party arrived speeches were again made from the pulpit by non-Muslims and a fresh committee was elected to deal with the question of the *hartal*.

The view taken of these meetings by orthodox Muhammadans is well expressed by the Hon'ble Khan Bahadur Fazal Hussain, no less a person than the Secretary of the Muslim League, who describes them as "sacrilege." Nawab Sir Zulfikar Ali Khan also states that this is the first mass meeting which has ever been held to his knowledge in the Shahi mosque. The position, therefore, it is urged, became more clearly defined than ever. The accused who had stage managed and directed the demonstration had openly shown their hand. They had been acclaimed by the populace as leaders, they had invited the citizens of Lahore to repeat the outrage of the 11th by desecrating once more the Shahi mosque on the 12th and this invitation had been accepted. The natural consequence, therefore, was that Mr Shafi and other gentlemen on being called upon to assist the Government on the 12th turned to these leaders and craved their help and co operation. As leaders they then laid down the terms on which they were prepared to put an end to the *hartal* and these conditions, after some modification, were taken by Mr Shafi and others to the Chief Secretary. It was understood that the result of Mr Shafi's interview would be conveyed to them at Duni Chand's house. This was done, and on this occasion Harkishan Lal is said

to have abused Nawab Fatch Ali Khan for warning the public in a letter to the press of the dangers of *kartal* and passive resistance

In the meantime the mob had left the Shahi mosque in the same state of tumultuous disorder as on the previous day and on reaching the Hira Mandi came into conflict with the authorities and had to be fired upon before it would disperse

The following day the 13th the principal accused attended by invitation a meeting with the Deputy Commissioner at the Town Hall, and there one Allah Din a stranger from Hoshiarpur was put forward by Dani Chand to inflame the feelings of those present by giving a lurid account of what he said was happening in the city. When the Deputy Commissioner arrived he was openly accused of *Reimant* (breach of faith) in sending troops into the city

Conditions were again laid down the attitude of the conspirators being that of people who could close the *kartal* if they chose and the meeting broke up without anything having been achieved. Subsequently the Deputy Commissioner explained to them that Martial Law would have to be introduced if the existing state of things continued. Another meeting was then held at Dani Chand's house and a small committee of six decided to advise the people to end the *kartal*. The prosecution is uncertain whether that decision was promoted by fear of Martial Law or by a desire to throw dust in the eyes of the authorities. When the decision was announced it may have been unfavourably received by some of the mob waiting outside but the leaders never told the people that Martial Law would follow and their story of a projected house-to-house visitation, which was stopped by a shower of rain, does not indicate serious effort. On the following morning the three most prominent accused were deported

It is pointed out, therefore how up to the evening of the 13th the members of this conspiracy ruled the situation spoke and acted as the rulers of that situation, dictated terms, objected to the conduct of the authorities, brought about various outrages and kept alive the general strike. It is not urged that all the accused were originally members of the conspiracy but that each and every one sooner or later joined the conspiracy and either by word or deed, furthered its objects by speaking sedition or by such acts as the opening of *langar* *khana's*

The accused fall into two groups. The first and infinitely the more important which is alleged to have formed the original conspiracy and is frequently referred to as the "lawyer accused," consists of five senior members of the Lahore Bar being three Barristers and two Pleaders, accused Nos 1 to 5 and two junior members, Moh In Shah and Habibullah Nos 9 and 7 the latter a young man who was but recently enrolled. The second group consists of men who are said to have joined later. Doctor Karam Chand Hatahi, No 8, is a well known medical practitioner of Lahore who recited a poem of his own composition both

inside and outside the Bradlaugh Hall on the 6th and opened a *langar khana* at his own expense on the 11th. Beyond these two acts, he is not shown as having joined or assisted the main body of the accused. Mathra Parshad, No 6, an itinerant minstrel employed by the Arya Samaj, recited a poem on the 6th, taken from the Delhi paper "*Tijar*" Allah Din, No 10, a mechanic from Hoshiarpur, who has recently come to Lahore, is alleged by the prosecution to have made three violent speeches at the Badshahi Mosque on the 11th, Duni Chand's house on the 12th and the Town Hall on the 13th. Moti Singh, No 11, is shown to have made a speech on the 11th in the Badshahi Mosque. He alone pleads an *alibi* and produces evidence to show that on the 11th he was in his school in Patiala, and that there must, therefore, have been a mistake in identity. Allah Din denies having been at Duni Chand's house on the 12th and, with this exception, he Mathra Parshad and Karam Chand all admit having made speeches or recited poems on the occasions alleged, but they urge that these have been wrongly reported, and anyhow that what they said was in no way seditious or objectionable. Doctor Karam Chand adds that the opening of his *langar khana* was a spontaneous, independent, act of charity, and that he never had any sort of connection with any promoter or preacher of the *hartal*.

Those who are accused of having originated the conspiracy fall again into two sub groups, the "principal accused" Nos 1 to 5 and the "minor accused" Nos 7 and 9. The defence of all seven, as opposed to those, who are said to have joined later, is a categorical denial, supported by the evidence of a large number of witnesses, of having either promoted or encouraged the agitation. They plead that they consistently helped the authorities, exercised a soothing and calming influence on the populace, endeavoured to get the *hartal* stopped, and on certain definite occasions succeeded in averting disturbances and induced the people to behave themselves. In the first place, they deny the authenticity of the order for the 16,000 copies of Gandhi's message and point to the absence of any direct evidence that these copies, by whomsoever they may have been ordered, were ever distributed. They admit that, being politically minded and members of the Indian Association, they have voiced their heartfelt conviction of the radical unsoundness and undesirability of the Rowlatt legislation, but they urge that, in doing so, they have but followed the example of all the members of the Viceroy's Council and have never exceeded the limits of legitimate criticism. As showing their anxiety to keep the agitation within proper bounds they prove that at a discussion with the Deputy Commissioner one of them offered to cancel the meeting of the 6th altogether, and again that Gokal Chand, a prominent member and speaker, at an association meeting of the 4th opposed the holding of the meeting of the 6th, and when he was over-ruled by the majority, asked to have his name removed from the list of conveners. His subsequent attendance is explained as due to a desire to help the police in getting the meeting dispersed before sunset and this more especially because he had thrice succeeded in induc-

ing the crowd to retire earlier in the day. Evidence is produced to show that, when the C. I. D. officers were hissed, he relaxed the gathering and this unfortunate incident is described as a mere isolated act of bad manners on the part of an irresponsible minority. (No explanation is offered of the fact that Duni Chand who does not deny that he received the letter asking him to make arrangements, deliberately led these officers into the body of the Hall though he knew that there were no arrangements and that the crowd had already made a demonstration against the European wife of Mr. Jai Gopal.) Great stress is laid on the fact that the notice of this meeting contained no mention of the *kartal*, which had been advertised and was expected to begin before the hour fixed for the meeting; and the speeches in support of the *kartal* more especially that of Chandhri Rambhaji Dutt are explained in the same way as those of the minor accused.

Many witnesses are produced to show that the Ram Navmi was celebrated as usual by the ordinary religious procession; that Hindu and Mohammedan unity was preached as a religious duty. Dharm Das and Mohsun Shah being among the speakers, and that as soon as the mob tried to break away from religion to politics and cried "Gandhi ki Jai" Gokal Chand rebuked the people and did so with the best results. In the same way all connection with the *kartal* of the 10th is stoutly denied, and this is explained to have been an orderly and spontaneous expression of pious grief by the citizens of Lahore on hearing the news of Gandhi's arrest. Two incidents are relied on as contradicting the theory of the prosecution that the outbreak on the Mall was brought about by the accused, and these are: offer made by Duni Chand to assist after the firing had taken place, and the speech by Rambhaji Dutt near the Lohari Gate, in which he is said to have confined himself to begging the rioters to return to the city. It is urged that on the 11th, it was at the wish of the Deputy Commissioner that accused Nos. 1 to 5 and No. 9 visited the Shahi Mosque and the speeches made are described as calculated to soothe the people and close the *kartal*. The opening of the subscription for *langar khana*s is denied. It is admitted that a subscription of Rs. 1,000 was offered though never paid by Harkishan Lal; but this offer, it is said, was made only on condition that the *kartal* was closed and with the object of financing a subsequent campaign of constitutional agitation. All connection with the *langar khana*s is also denied and these, it is urged, were the outcome of the spontaneous charity of humane citizens, who could not see poor people starve, however misguided they might be. It might further have been pointed out that it was perhaps hardly for these accused, of whom the majority are Hindu lawyers, to put an end to the desecration of the Badshahi mosque when the members of the committee of management and the Muslim *Rais* who must have known what was happening saw fit to take no action, but, even if this be admitted, the question remains whether these persons, as alleged actively encouraged and promoted the rioting and the sacrilege. The attendance of some of the accused on the 12th was again prompted, it is said, by

a desire to help Government, and the meaning of the formation of a committee to consider the alternatives of continuance and cessation is said to be that a bald announcement of the real intention of ending the *hartal* at all costs would have been unfavourably received

The principal accused explain how they were called into consultation by Mr. Shafi on the 12th, and how they agreed with him and other leading citizens on the action to be taken and the conditions to be laid down. They add, that the fact that all these gentlemen and title holders agreed with them shows that the advice was moderate and sound. If Rambhaji Dutt on his arrival used angry and excited language to anybody, it was only in consequence of a carriage accident, and, in the same way, if Harkishen Lal later abused Nawab Fatch Ali Khan in a private house, it was a matter to be settled by the gentlemen concerned, and is certainly no evidence of a criminal conspiracy. Exception is taken to the evidence of the use of the word "*Be imam*" on the 13th to the Deputy Commissioner, and it is pointed out that, at the worst, there was a difference of opinion between him and some of the accused.

The separate incidents brought forward to show that the accused loyally assisted the authorities on every possible occasion are as follows —

Duni Chand wrote to the students and others coming from the Ravi on the 6th, and told them not to hold a procession. On the same day, Gokal Chand three times succeeded in turning back the mob and preventing it from breaking out upon the Mall, and this he did at the special request of the police. The same afternoon, it is said, he rebuked the crowd at the Bradlaugh Hall and stopped the demonstration against the C I D Officers. On the 9th, he controlled the mob and prevented the use of political cries at the Ram Naumi procession. On the 10th, Duni Chand offered his assistance after the firing on the Mall, and, later, Rambhaji Dutt tried to induce the mob at the Lohari Gate to return to the city. Mohsin Shah succeeded in doing so at the Mochi Gate, and finally Harkishen Lal gave excellent and prudent advice to the Deputy Commissioner as shown by witnesses, D W 10 and D W 31. This is said to have been not that the bodies of those killed in the riots should be returned as demanded by the mob, but that they should either be returned or disposed of.

The case for the defence, therefore, may be described as taking each separate incident and treating it as such, apart from all that occurred before or after. The importance of each adverse detail is then minimised, or an innocent explanation is tendered, which might very often be entertained and accepted were it possible to treat such incidents separately.

The case for the Crown, on the other hand, consists of collecting various facts and incidents and urging that the combined effect of such facts is sufficient to establish a strong and convincing case. Reliance is often placed by both sides on the same incidents. The defence shows that on certain occasions some of the

accused did assist or did offer to try and assist the authorities. The prosecution, on the other hand points to the same incidents as showing what great authority these people had and it endeavours to establish that not only did they abstain from doing their duty but that they deliberately fanned the flames and excited the passions of their ignorant followers.

In order to clear the ground it is desirable to discuss first the position which is held in Lahore by accused Nos. 1 to 5, i.e. the five Hindu Lawyers. There is a large body of evidence that they are in no sense leaders of the people; that they have no influence in the city and that when some of them went there to induce the people to open their shops they were greeted with such cries as "We did not close our shops for you and we will not open them for you." We have even been told that though these accused were prepared to end the *kafal* Mr. Shafi and his friend would have been in a difficult position had they really tried. In his argument Mr. H. N. Mahabadi left the part of the evidence severely alone and has contented himself with saying that though some of these accused are leading men not only in Lahore but in India, leading men merely in voice and do not lead public opinion and that in any case the clients are in no sense leaders of the shopkeeping class.

Now it is true that in a letter published in the *Civil and Military Gazette* of May 11th the Hon'ble Rai Bahadur B. Khashi Sohan Lal, who is a member of what has hitherto been described as the moderate party, advanced a claim that he with Raja Narendra Nath, the Hon'ble Rai Bahadur Rambaran Das, the Hon'ble Mian Muhammad Shafi, the Hon'ble Sir Zulfikar Ali Khan and others had brought about the ending of the second *kafal*; that their influence had already borne fruit in the city on the 16th and was merely assisted by the action taken under Martial Law which "expedited" the conclusion of the *kafal*. This letter has never been publicly repudiated by any of those on whose behalf the claim was made, but it is sufficient to say that it is established both by the prosecution and the defence that the conclusion of the *kafal* was due solely to the orders passed under Martial Law. Mr. Shafi and the *rasis* class generally are, no doubt, prominent professionally or socially and a number of them are, of course, members of the Legislative Council. It does not however follow that they are persons of influence in Lahore. On the contrary there is ample evidence of a convincing kind that the people of the city regard them as time servers and title hunters, and dislike them accordingly. It is clear too that other politicians look upon them as men who can be led though they cannot lead. Thus in his speech of the 4th of February as reported in the *Tribune* of the 7th a passage which provoked loud and prolonged applause, Gopal Chandra did not hesitate to tell even Mr. Shafi and Sir Zulfikar Ali Khan that if they supported the Rowlatt Bills they would be regarded as enemies of their country and India would know the reason why. We do not propose to discuss Mr. Shafi's reasons for voting against the Bills, but we should not be surprised if the results of this kind were not wholly without the effect intended and it may well be that such

orders to toe the line had something to say to the complete unanimity on which Mr. Shafi dilated in his speech in Council.

Mr. Shafi has told us that on the 15th of March the moderate party issued from Delhi a manifesto in which they deprecated passive resistance as preached by Mr. Gandhi. Mr. Shafi had himself spoken in Council on these lines and we fully believe that he meant what he said, but though he must soon have discovered the futility of the Delhi manifesto, neither he nor any of his friends, with the solitary exception of Nawab Iftich Ali Khan, made the slightest effort to check the propaganda which were being preached in the city of Lahore.

Again, while it appears to us to be quite possible that most of these gentlemen may not have wished to prevent the *hartal* of the 6th, we have no doubt that they did not approve of the *hartal* of the 10th, and would have stopped it if they could. Nevertheless, when asked by Government to help, it never occurred to them to go straight to the city and to make a direct appeal to the people. They assembled a few leading shopkeepers at the house of Mr. Muhammad Naki, but were at once referred by these shopkeepers to Harkishen Lal, Rambhraj Dutt and Duni Chand, who were described by name as the leaders. After that, all that Mr. Shafi and his friends attempted to do was to try and make terms with the leaders, whom they clearly regarded as controlling the situation, and they of all people were in a position to know. Mr. Fyson, the Deputy Commissioner, also so regarded them, and he has told us that some of them spoke to him as persons of authority with power to end the *hartal* if their terms were granted.

The accused have made a great point of the fact that Mr. Shafi and his friends agreed to the terms drawn up on the 12th of April and represented their own agreement to the Chief Secretary. Probably, however, that position was forced upon them by the unpleasant alternative of confessing complete impotence to Government and at the same time incurring still greater unpopularity in the city. It cannot have been altogether pleasant for Raja Narindria Nath to have to admit to us the small esteem in which he and his friends are held, but he has done so fully. He has told us that it would have been quite useless for any of the moderates to hold a meeting or to say a word in defence of Government, because only those who attack Government can get a hearing, that when he went into the city on 12th he would not have dared to explain the Rowlatt Act, and that when he went there again with the Hon'ble Rai Bahadur Ramsaran Das they were both taunted by the crowd as beneficiaries of Government. So too, Rai Bahadur Ramsaran Das himself was quite unable to keep his works open during the second *hartal*, and Mr. Shafi had to submit to a protracted *hartal* in his own ancestral village of Baghbanpura. Neither he, nor Sir Zulfikar Ali Khan, though they are on the Managing Committee of the Badshahi Mosque, attempted to prevent the sacrilege of the 11th or 12th. There are many other indications of the dislike, with which any one who is suspected of friendliness towards Government is received in Lahore City, but we will not labour the matter further. The point is that if the accused can produce a seemingly respectable witness D W II 273 to testify to the

and did not carry them away. What they learnt generally was that in spite of the opposition of the whole of India and in particular of a saint named Gandhi, who they were taught to believe was the Kili of the Hindus and the Wali of the Muhammadans, an alien Government was trying to pass and eventually did pass an exceedingly harsh law which threatened the liberties of the humblest individuals; and that unless all classes and religions united against the Government, there was no hope of averting the imminent peril. This teaching was enforced with all the arts of demagogues, who were unparing in their abuse of a Government which they said, was meting out tyranny in return for loyalty and sacrifice. Such speeches fell on the ears of ready listeners, some of whom deliberately or otherwise must have retailed a still more garbled version of the iniquity of Government. As the result, the catch phrase *Na Tuti Na Dili Jan Pesi* was in many lips and it was commonly believed that all and only the guiltless and innocent of all crime, could be arrested at the will of the police and condemned without trial—that all assemblies of more than 3 or 4 people would be prohibited and that in some mysterious way even the women and children would be made to suffer.

It was not possible, nor indeed would it have been worth our while, to examine all the hundreds of defence witnesses concerning their knowledge of Gandhi and of the Rowlatt Act, but we tested that of a good many. Most of them knew nothing more of Gandhi than his name or of the Rowlatt Act than that it was said to be a harsh law, but some did not even know that. Yet nearly all the witnesses of the class to which we refer and they were very numerous, are men who said that they closed their shops on the 6th on account of the Rowlatt Act and Gandhi's message and closed them again on the 10th because news had come of Gandhi's arrest.

In face of the evidence before us, it is ridiculous to argue that the people of Lahore generally were influenced by their knowledge of the history of Mr. Gandhi's fights for liberty or the fineness of his character. It is true that during the months of March and April his name must by constant use have become familiar to most, but few indeed had heard more than the vaguest report of his holiness and patriotism.

Nevertheless, in spite of the general ignorance that prevailed in one way or another by means of meetings and other propaganda, a sufficient number of people had been taught enough (the truth of what they learnt being immaterial) to form a numerous and noisy faction which was only too ready to carry out the wishes of those who desired to procure the repeal of the Act.

Those of the accused who are concerned in earlier events all assert that they did nothing either to compel or to persuade the *Kartal* of the 6th. Of compulsion by the accused on either occasion we have no evidence. On the 6th at least the use of force was generally unnecessary as the *Kartal* was pre-arranged. The positive oral evidence that some of the accused, viz. H. Kishen Lal and Duni Chand, visited the city on the 5th with the object of persuading the people not to open their shops on the following day has been subjected to much criticism, but it is very

likely that it is true. For the purposes of this case, however, it does not in the least matter whether it is true or not. It is impossible that a complete *hartal* could have been organised without persuasion from persons other than those who did not themselves know why they should close their shops, and there is no difficulty in tracing the source from which the persuasion came.

We see from the evidence of Amr Nath, P W 4, that Duni Chand was claiming a right of persuasion from the Deputy Commissioner, and it has actually been urged that Ex. D II 1 is proof that the Deputy Commissioner himself gave his approval to use persuasion up to the evening of the 5th, though no longer. (See also in this connection the written statement of Rambhaji Dutt, accused No 2, and the evidence of Dina Nath, D W 21). The accused have urged the omission from Ex. P 15 (the notice for the meeting of the 6th of April) of all reference to suspension of business, as proof that they did not wish even to recommend a *hartal*. But, as already mentioned, we have it from Jai Gopal Tandon, D. W 22, that Mr Gandhi's message was published broadcast through Lahore. We attach no importance to the inability of the prosecution to show that the 16,000 copies of this message were paid for. The books of the Indian Association have been suppressed and the leaflets were certainly ordered by them. From this we may safely conclude, in spite of the contention that the opposition to the Act in Lahore was due not to the accused, who lacked influence to promote it, but only to the campaign in the press, that the accused themselves were regarding the press as a very inadequate organ for advertisement and that they did distribute the copies.

It is futile again to contend that there was nothing unusual about the Ram Naumi procession. There are of course many witnesses for the defence who stated this, but as already pointed out they stuck at nothing, and we fully believe the statements of Jawahir Lal, P W 12, and Muhammad Shah, P W 14, which show that it was of a highly seditious and inflammatory character.

The *hartal* of the 10th of April was certainly spontaneous in the sense that it started as soon as the news arrived of Gandhi's detention, and we have no evidence, on which we would care to rely, that it was initiated by visits to the city of any of the accused. It is not indeed likely that many of the shopkeepers wished to close their shops, but crowds began to collect and to tell them that they must do so. Those addressed obeyed, and the others rapidly followed their example.

Nor have we any evidence that any of the accused instigated the mob to proceed up the Mall.

Mr Hassan Imam has contended that, as none of the Members of the Imperial Council were called to order by the President and some of the speakers were even complimented by the Home Member, the Council speeches must have been unobjectionable and that, as the speeches made in Lahore were no stronger than some of those made in Council, it is ridiculous to found charges of sedition on the speeches in the Bradlaugh Hall. Without entering into any comparison of the two

sets of speeches, we need only remark that, in our opinion, some of the Council speeches, though they are published in the Gazette and are for sale to the public, might if repeated in a heated atmosphere easily excite disaffection towards Government. The influence of such speeches on the Lahore orators has been strongly marked.

Of the violent character of some of the Lahore speeches there is no room for doubt, and the reports on which the prosecution rely are in our opinion, quite accurate enough for conviction of sedition against certain individuals. In this case, however we are not entitled to convict persons except of offences committed collectively or as the result of conspiracy and, as we think it an over-statement of the case to say that there was a conspiracy to "commit sedition" on the 6th April, we consider that the charges of sedition based on what occurred before the time of the second *hartal* must fall to the ground.

We have had some difficulty in following Mr Hassan Imam through his discourse on the subject of passive resistance. He referred to a speech on the subject of Indians in South Africa, in which Lord Hardinge expressed what appeared to be an unqualified approval of passive resistance as practised by Mr Gandhi in South Africa. Possibly the passive resistance of a minority in South Africa is less dangerous than a country like India where resistance to the law is never likely to be passive for long, once the passions of a credulous populace have been stirred up by sedition and the dissemination of wilful lies. In any case two blacks do not make one white.

Mr Gandhi, we are informed though he is still at liberty has been personally practising resistance to the law regarding proscribed literature. In Lahore, none of the accused got so far as that. Some of them no doubt recommended Mr Gandhi's teaching for adoption; but, although at the invitation of Rambhaj Dutt at the meeting of the 9th of March the majority of the audience stood up together to signify their willingness to take the vow no one actually took it. It is impossible in practice to resist the Rowlatt Act passively except by becoming an anarchist, and though at a later stage—*vide* Ex. P 22, people were recommended to resist taxation, at the meetings under consideration it was never decided what laws should be passively resisted. We are, moreover convinced that one at least of the accused was actually anxious to avoid starting a campaign of this kind.

Again, it is not in itself an offence to persuade people to suspend business. No doubt, after what had occurred at Delhi on the 30th of March, the accused must have known that a general *hartal* was likely to lead to rioting; but it cannot, we think be fairly said that they intended that offences should be committed on the 6th of April, and if they did not, they do not appear to be criminally liable (in this connection see the case of Lord George Gordon 13 State Trials)

We are, therefore, of the opinion that as regards these points also the charges must fail, and perhaps it is just as well that we are not obliged to convict in Lahore men who up to the time of the second *hartal* had done no more than others had accomplished with impunity elsewhere.

We may add that in the Gujranwala case the Commission presided over by Mr Justice Broadway appears to have arrived at the same conclusion

Whatever their earlier intentions may have been, on the evening of the 10th of April at least it must have become clear to all concerned that their agitation had resulted in a dangerous outbreak. Open rebellion and murder had occurred in Amritsar, and if in Lahore it had not been possible by the prompt employment of military force to push the mob back to the city, like causes would most probably have been followed by like effects

We have ourselves held in another case that the riot on the Upper Mall on that date amounted to an offence under Section 121, Indian Penal Code, and another Commission has come to the same conclusion in regard to the riots at the Lohari Gate

It was obvious that unless the *hartal* ended at once further discontent, tumult, and outrage must necessarily result, and it was the plain duty of every loyal subject to do all that lay in his power to quell the excitement and to get the people back as soon as possible to peaceful employment. On no one did this duty lie more heavily^o than on those, who by their speeches and influence had created the danger.

This indeed is what the accused claim to have done, but though, in order to prevent a collision at that particular moment, Rambhaji Dutt did no doubt try to get the people to retire through the Lohari Gate, he certainly did not advise them to end the *hartal*. We have no hesitation in believing the statement of Maratab Ali Shah, P. W. 29, that even while telling them to retire he also told them to assemble the next day in the Badshahi Mosque. This meeting was certainly pre arranged and no other explanation of its origin has been offered. Over the gate-way there was a flag with a seditious inscription and Hindus and Muhammadans alike had gathered together to the number of some 25,000. Never before has a joint meeting of a political character been held in the building

Rambhaji Dutt of course attended this meeting, but his explanation is that he and others did so at the suggestion of the Deputy Commissioner, Mr Fyson, and then only in order to assist in allaying the excitement and stop what was going on. Mr Fyson himself does not remember having given any such instructions, and we think it probable that he did not do more than ask them to end the *hartal* and explain why the dead bodies could not be returned. But granting that he did so, Rambhaji Dutt did not carry out his instructions. The two best accounts of what occurred are contained in the statement of Jiwan Lal, P. W. 26, and in the report,

Ex 1 62 which was prepared by Hari Mohan Chatterjee, P W 28, for the Associated Press in India. The last named was the best witness who appeared before us throughout the course of this trial

Ramdhaj Dutt proceeded to address the gathering from the pulpit of the mosque. He no doubt appealed to the young men not to cause provocation or to resort to violence and probably also he advised them not to go on the Mall, but any communications which the Deputy Commissioner had asked him to make were given by him as the orders of the Deputy Commissioner and not as his own advice, and at the same time he posed as a man who was himself not unlikely to be going to his death. He claimed that the firing at the Lohari Gate was unjustifiable, because the people who were fired upon were already moving off, and he urged that it was their duty to stand when fired upon and not to retreat. He referred, moreover to an expected decision of a Satyagraha Committee that the orders of the police and other laws should be disobeyed even if death was involved; and he called upon the mob to continue and make permanent the union which had been displayed that day. In fact, instead of doing anything to allay the prevailing excitement, his speech was of a highly inflammatory character; and so far from telling the people that the *kartal* must be discontinued unconditionally he informed them that the decision on that point would be referred to a committee.

Then according to the statement of his own witness, Khan Bahadur Mian Siraj Din, Honorary Magistrate and member of the Lahore Municipality D W II 17 he went back and told Mr Broadway the Superintendent of Police that he had persuaded the people to depart to their homes and not to form processions in the streets

Shortly after his departure from the mosque, there occurred the incident of the arrival of Balwant Singh, which indicates clearly the excited condition of the mob, whose passions Ramdhaj Dutt claims to have allayed. This took place during the course of what is described as the violent speech made by another of the accused Allah Din, No. 10, towards the end of which Duni Chand arrived upon the scene in the company of Harkishen Lal Dharam Das and Piyaro Mohan, P W 27

Duni Chand too claims that he only went to the mosque because he had been informed by his brother Ganpat Rai D W 114, that the Deputy Commissioner wished him to do so. The same witness states that it was Duni Chand's own idea to take Harkishen Lal with him, though it is not explained why he should have wished this, if Harkishen Lal is a man of no influence or popularity. The mob evidently thought otherwise for not only Duni Chand, but his friends, Harkishen Lal and Dharam Das, were carried in triumph to the pulpit of the mosque. A committee was then formed at the suggestion of Duni Chand for the purpose of collecting funds to feed and help the poor during the period of the strike and for this object Harkishen Lal promised a subscription of Rs. 1000

The fact that he offered to subscribe this sum is not denied, and the story that the offer was made only on condition that the people opened their shops first and then only to provide the expenses for constitutional agitation against the Rowlatt Act and for a memorial to His Majesty the King, is pure invention. There is no reference to anything of the kind in the very accurate report, Ex P 62, and the object plainly was to keep the *hartal* going, for if it ended, there would have been no need for the free distribution of food. Jiwan Lal has told us that before the meeting dispersed it was decided that the *hartal* should be continued, and that there should be another meeting in the mosque on the following day, and the impression which Hari Mohan Chatterjee took away with him was that the *hartal* was intended to continue for another week.

After the meeting dispersed a procession, led by men armed with *lathis*, went through the city with shouts of "*Delhi ke Shahidon ki Jai*," and "*Amritsar ke Shahidon ki Jai*" and yelling "*Hai Hai George Mar gaya*" destroyed such pictures of Their Majesties as were found on the way.

We have no doubt that all the speeches made on this occasion were both calculated and intended to make matters worse than they were already and they were eminently successful in achieving their object.

We are then told, however, that on that very night a number of persons, including of the accused, Harkishen Lal, Duni Chand, Gokal Chand, Habibullah, Dharam Das Suri and Ramhhaj Dutt, drew up a manifesto (*vide* Ex D I-I) beginning with the later and more pacific message of Gandhi and ending with their own advice in the following words —

"In compliance with the above mentioned order of Mahatama Gandhi, it is our duty to exercise peace and patience at every step. The Lahore public have, in a manner worthy of their dignity, expressed their grief and sympathy over Mahatama Gandhi's arrest and their protest against the Rowlatt Act. The authorities have been now fully informed of the intentions and wishes of the public. We, therefore, request the public to resume their usiness as usual and keep up the further effort and struggle that is necessary in the city and outside the city through committees.

"We pray to the God of Universe that He may crown your intentions with success."

In face of what had just occurred it appears to us to be very unlikely that this manifesto was drawn up as early as the 11th April, seeing that while recommending the continuance of the struggle against the Rowlatt Act by means of committees, it nevertheless advised an immediate resumption of business. The only evidence we have about it, which can be described as in any way reliable, is contained in the statement of Raja Narendra Nath, D W II 6, who said that on the evening of the 11th he had been told, that a manifesto of this kind

was under preparation not that it had been actually prepared. In any case, even if it can be believed that for the moment somewhat wiser counsels had prevailed they were speedily abandoned. The statement of the printer Dina Nath D. W. 21 who has been put forward to relate the reasons why it was not printed, is pure rubbish; and it is obvious, that had the signatories so desired, they could have got their manifesto printed and issued immediately if not from the *Desk* press, then from some other.

We are by no means sure that this manifesto was not drawn up at some later stage of the proceedings, and then only with the object of providing exculpatory evidence.

The second meeting which had already been arranged took place in the Radshahi Mosque next morning. The temper of the crowd which had assembled, is shown by the attack on Inspector Ali Gauhar, P. W. 46, of the C. L. D. while the mob were awaiting the arrival of the principal agitators. The story of Rambhaji Dutt Harkishen Lal and Duni Chand is, that they had learnt accidentally of this second meeting and had gone to the mosque in order to do what they could in order to assist the Government. They did nothing of the kind. Rambhaji Dutt again exhorted the people to face death with fortitude.

By this time there must of course have been many people who were suffering loss of business or even actual want and the question whether the *Akhal* should be continued or not was certainly re-opened. This led to the election of another committee to decide this particular question and to tell the Mohalla Chaudhries what they were to do. Among the members of this committee were Rambhaji Dutt, Harkishen Lal and Duni Chand, and it was Rambhaji Dutt who put the names to the vote by acclamation. The story of Ghulam Hussain Shah, P. W. 40, is on this point borne out by the report of Hari Mohan Chatterjee Ex. P. 63, and we have no doubt that it is correct. The defence has not thought fit to produce any evidence concerning what occurred on this occasion. The names of a few unpopular persons, including that of the Hon'ble Rai Bahadur Ram Saran Das, were rejected by the mob; and it is quite certain that these three accused had not proposed unconditional surrender. What occurred on this occasion emphasises what we have already said regarding the worthlessness of the manifesto, Ex. D 11.

Not long after the mob left the mosque, it had a collision with the Police and Military at the Hira Mandi, and the Police were ordered to fire. This affair has been the subject of another trial by the second Commission. Some details of what occurred are given in Ex. P. 63.

It was after this, that the meeting at Mr Shafi's house was held. According to Mr Shafi, Duni Chand and Gokal Chand expressed the view that their influence with the public was exaggerated and that, owing to the firing which

had just taken place, people were more excited than before. They said, therefore, that unless the Government was prepared to make certain concessions, they doubted if the people would listen to them. The conditions which Duni Chand suggested were the repeal of the Rowlatt Act and the release of Mr. Gandhi. Nawab Fateh Ali Khan, however, includes the demands for the release of every one arrested at Amritsar and the removal of the Military from Lahore. When they were told that some of these conditions were impracticable, they agreed to (1) the withdrawal of the Military, (2) the restoration of dead and wounded, (3) the release on bail of all persons arrested, and (4) the formation of a committee to advise Government and to maintain order.

When Rambhaji Dutt arrived and heard the conditions, he was very excited and reiterated the demands for the repeal of the Rowlatt Act, the free entry of Mr. Gandhi into the Punjab, and the release of Kitchlew and Satyapal, but in spite of his objections, the conditions as originally drawn up were agreed upon. We do not believe that his excitement was due to his horse having shied.

The contention for the accused generally is that they knew that unless such concessions were granted the people would not be willing to end the *hartal*, though they themselves, if they had had the power, would have been quite ready to end it unconditionally.

It is, however, quite clear from the evidence that this was not their attitude at the time. They were objecting to having the *hartal* stopped until what they regarded as the grievances of the people were removed. They had just received a mandate from those assembled in the Badshahi Mosque to decide whether the *hartal* should be ended or not, and there is no evidence that anything has been said about conditions. The conditions, therefore, embodied their own ideas of what it was right to demand and the plain fact is that they were quite unwilling even to attempt to end the *hartal*, unless they could go back with proof of a triumph over Government. There had been some shopkeepers there, but they took no part in the discussion.

Mr. Shafi and some of his friends, after learning the Government was not prepared to accept the conditions which had been laid down, repaired to the house of Duni Chand, where a Committee was sitting. Mr. Shafi was invited to address it, but after he had spoken, Allah Din, accused No. 10, got up and said that the Government had been guilty of a breach of faith in sending troops into the city, that innocent persons had been killed, and that unless the Rowlatt Act was repealed and Gandhi released there was no use expecting people to reopen their shops. Rambhaji Dutt and Harkishan Lal were both present. When Nawab Fateh Ali Khan came into the room, he was roundly abused by Harkishan Lal for having written a letter published in the "Civil and Military Gazette" on the 5th of April, in which he condemned passive resistance and the proposed

kartal of the 6th. It is impossible to understand why if Harkishen Lal was at this time willing to do all that he could to help Government he should have made this letter a basis of attack. Duni Chand's party were not prepared to yield from the position which they had already taken but it was arranged that another meeting should be held in the Town Hall next morning.

This meeting was held in the presence of the Deputy Commissioner. It is over-stating the case to term it tumultuous, or to make it the basis of charges. Accused Nos. 1 to 5 and Allah Din No. 10 were all present. Allah Din made a speech similar to that which he had made on the previous day and he was supported by Rambhaj Dutt both of them accusing the Deputy Commissioner of having broken faith in sending troops into the city. It is quite possible that Mr. Fyson had said something which Rambhaj Dutt either misunderstood or chose to misunderstand but it is immaterial. The point is that Duni Chand's party at this meeting were no more willing than they had been before to try and end the *kartal* unless Government was first prepared to climb down.

Subsequently some of the accused were summoned by the Deputy Commissioner to his tent at the Telegraph Office where he read to them some portions of Bengal Regulation No. 1804 and told them that unless the *kartal* was stopped Martial Law would be introduced. Mr. Fyson was not inviting legal opinions, but Rambhaj Dutt showed his continued recalcitrance by objecting that the Regulation could not be applied.

The same afternoon another meeting was held at Duni Chand's house. The best accounts which we have of this meeting are from Shuja-ud-din, Barrister D. W. 8, and Feroz Din, Barrister D. W. 116. Six persons—Duni Chand, Harkishen Lal, Gokal Chand and Mohsin Shah with the two witnesses—were elected to a sub-committee which was to decide whether the *kartal* should come to an end. There were no shopkeepers on the committee, but apparently some of them were invited to give their opinion. The decision was in favour of an unconditional surrender though, according to Feroz Din Duni Chand at first objected and was unwilling to take any steps to persuade the people. It is said, and there is a great deal of evidence to that effect, that when the decision was announced by Rambhaj Dutt, the leaders were accused of trucking to Government. They then, according to their own account, decided to visit the shopkeepers in the town but gave up this idea as the rain came on. The more probable theory is that finding the decision unpopular they were unwilling to press it, for on the same evening Gokal Chand and Duni Chand again approached the Deputy Commissioner with a request for a concession, viz. the withdrawal of the troops. The people were never informed by them, that the authorities had decided to introduce Martial Law if the *kartal* did not end.

Next morning, accused Nos. 1, 2 and 3 were deported; but the *kartal* did not come to an end, until the 18th and then only by the military order.

It is hardly profitable to discuss whether or not the principal accused could have ended the *hartal* on the 13th, though we think that they might perhaps have done so if they had subordinated their own popularity to the public good, had been straightforward with the people and had really tried to get the saner elements of the city on their side.

That they could have done so on the 11th and again on the 12th, we make no doubt. We are not, however, going to convict anyone merely for failing to use his influence on the right side, even though we may consider that by doing so they could have restored peace in the city, and for a like reason were do not regard as a proper subject of a charge the action of any of the accused in laying down to Government the conditions, on which they were prepared to assist. No doubt they were morally bound to help unconditionally, but they were not legally bound to do so and their omission was not in itself an offence. Their attitude in that matter is of course good evidence of their intentions, but so far as charges are concerned, we shall confine ourselves to criminal acts of a positive kind.

In doing so, however, we must, as even Mr Hassan Imam has conceded, take judicial notice of the state of rebellion which existed on the 10th of April onwards. It has not been argued before us that the acts in the Badshahi Mosque attributed by the prosecution to some of the accused would, if proved, fall short of offences under section 121, Indian Penal Code, and of their extreme gravity there can be no doubt. After weighing all the evidence, we are of opinion that the prosecution has established that there was an active conspiracy in Lahore to bring about the repeal of the Rowlatt Act by criminal means, namely, by waging war against the King, and that in furtherance thereof war was waged from the 11th onwards. These men knew, none better, that the state of rebellion was largely due to their own efforts, and that Lahore was one of the principal centres from which disaffection and open defiance of Government were spreading through the Punjab. The mere fact that owing to the rapid assumption of military control no serious damage was done in Lahore itself is to our minds quite immaterial. The results of their efforts were not confined to Lahore, and if in order to overawe Government into the repeal of the Act, they did what lay in their power to produce further excitement and outrage, they must take the consequences.

Before proceeding to discuss the case of each individual accused, it is necessary to remark that all of them, according to their station in life, have been able to produce testimonials, from more or less eminent members of society, to their moderation and loyalty. These they could doubtless have multiplied as often as they wished.

Some of them, again, have been able to show that in recent times they have not merely prayed for the success of the British Arms, but have advocated

War Loans, helped in recruiting and have even "given" relatives to the Indian Defence Force or clerks for Mesopotamia. Perhaps all of these efforts were not very valuable and it has to be remembered that some of the accused are men who are always in the lime light, but we have no doubt that every one of them however much he might dislike the existing Government, at least preferred it to prospects of German rule. None of these things, however really affect the matter before us. It is on the evidence of their actions in this case that the accused must be judged.

Harkishen Lal (No 1).—Much stress is laid on statements by men like Mr Shafi and Sir Zulfikar Ali Khan that this accused has taken no part in politics for several years past. These gentlemen were evidently misinformed. Harkishen Lal is not a frequent speaker on public platforms, but he is nevertheless an active politician,—*vide* the statement of Barkat Ali, D W IX 3,—and was recently elected a member of a deputation to proceed to England. He is President of the Indian Association and though he did not attend it, he was one of the conveners of the meeting of the 6th April. We have no doubt that throughout he was in the full confidence of Rambhaji Dutt and Duni Chand. He was acting in close co-operation with them on the 11th, 12th and 13th April, was present at both the meetings in the Badshahi Mosque and his general attitude is shown by his unprovoked attack on Nawab Fatch Ali Khan. There is no need to recapitulate what we have said about his promised subscription to the *hartal*.

Rambhaji Dutt (No. 2) was the chief spokesman of the conspiracy. As early as the 4th February he made a seditious speech in which he foreshadowed the same fate for England as had befallen Germany. On the 6th April, he preached the *hartal* and the need of undergoing suffering an idea which he further developed and amplified in subsequent speeches. On the 10th of April at the Lohari Gate he invited the mob to the Badshahi Mosque; and on the following day he made a violent and inflammatory speech and incited the people to stand firm and be shot. On the 12th, he again enlarged upon the same text. We find that he has throughout been one of the moving spirits in the conspiracy.

Duni Chand (No. 3) was the chief organiser as opposed to the chief spokesman of the conspiracy. As Secretary of the Indian Association, he arranged the earlier meetings of protest. His influence in the city is proved to be infinitely greater than that of any of his companions. He attended the meeting of the 11th of April at the Badshahi Mosque and took the leading part in the appointment of a committee to continue the *hartal* and in the raising of subscriptions for *langur khana*s. When the meeting broke up, he invited the mob to come again next day and he came himself with Rambhaji Dutt and Harkishen Lal. On the 13th at the Town Hall he deliberately put forward Allah Din, a stranger and mob orator to tell the meeting what was happening in the city. This man had spoken on the 11th at the mosque and on the 12th at Duni Chand's own house and had no qualification for the task beyond the violence of his language.

Duni Chand further threatened the authorities with the possibility of a riot, as the consequence of not acceding to his request for the release on bail of Moti Ram, and behaved throughout as an acknowledged leader, considering what had happened and was happening, the one incident of calling the meeting of the 12th in the Shahi Mosque, which he must have known would end in bloodshed, would be sufficient in itself for a conviction of waging war, and taken with the remainder of the evidence it established beyond doubt that Duni Chand was a most active member of the conspiracy

Dharam Das (No 4) is an irresponsible and excitable fanatic, who does not appear to be taken very seriously by most people. He is deeply interested in philanthropic and religious movements and is a prominent preacher of the Brahmo Samaj. On the 4th February he made an intemperate and incoherent speech at the Bradlaugh Hall, and he accompanied Duni Chand and Harkishen Lal to the Shahi Mosque on the 11th April, but he did not go again on the 12th. Considering the peculiar temperament of this man and his incessant pursuit of notoriety, as evidenced by his frequent speeches at all sorts of meetings, we think that the most favourable interpretation of his conduct must be accepted. In spite of his love of public speaking, he took no part in the proceedings on the 11th and he abstained from accompanying Duni Chand and Harkishen Lal to the meeting, which he knew would take place on the following day. This we believe to mean that he did not know the grave nature of the situation until he arrived at the mosque on the 11th, and that on realising what was happening he deliberately refrained from further action.

Gokal Chand (No 5) took an active part in the earlier stages of the agitation, and we are not satisfied with his explanation of his conduct at the meeting of the 6th April. His conviction, however, depends on the part played by him in the later events. It had already been explained that we do not regard participation in the meeting at Mr Shafi's house on the 12th as a criminal act. He did not attend either of the mosque meetings and his election to committees in his absence is no proof of his intent to wage war. Possibly, his absence was due only to an instinct of self-preservation, but on the 6th April when matters looked serious, he used his influence on the right side, and on the whole we think that the facts point to the conclusion that he was averse to open defiance of authority, and that it was for this reason that he did not join in instigating the populace to prolong the *hartal*.

Mathra Parshad (No 6) is a peripatetic minstrel. On the 6th April he recited a poem, of which the general tone and one line in particular were seditious, but he had no connection with the events after that date.

Habibullah (No 7) is a young man of good family and some property, who was probably drawn into this agitation by mere desire for notoriety. He would have been much better advised to leave politics alone, but the case against him is

largely based on misconceptions. His speech on the 9th March was in support of a compromise designed to avoid the *Satyagraha* vow and that of the 6th April has been misinterpreted by the prosecution as the result of a mistake which is now admitted. He did not attend the mosque meetings and he was not responsible for his election to the *Karai* committees. Indeed after the 9th April he took no part in any of the proceedings.

Karam Chand (No. 8) recited on the 6th April a seditious poem which did not lose its general character by the mere insertion of certain complimentary references to the Secretary of State. We cannot however convict him in this trial of an isolated act of sedition at that stage. We distrust the evidence that he attempted to prevent dhobis from doing their work, and the only other point against him is that he maintained a *langar khana* on the 11th and the 12th in the Dhole mandi which is at some distance from the city. There is, however, reliable evidence that this kitchen was not used by the city roughs, and it was closed as soon as Government had made arrangements for the provision of supplies. Karam Chand is undoubtedly a man of charitable disposition which he has often shown in a practical way and it is certain that he entertained no animosity towards Europeans. His recitation may have been a mere poetical extravagance and in our opinion his *langar khana* was not intended to prolong the *Karai*.

Mohsin Shah (No. 9) is a member of the provincial Muslim League. We do not trust the evidence that he joined the mob on the 10th April and prefer his explanation as more likely to be true. The only real point against him is his attendance on the 11th at the Badshahi Mosque, where he went with Rambhaji Dutt, knowing that Mr. Fyson had sent them, if not to the mosque itself, at least to make certain communications to the populace. We are not sure that he knew what Rambhaji Dutt was going to do; and afterwards, when called upon to assist his leader, he seems to have been too frightened to open his mouth. He was not present when he was elected to the *Karai* committee and he did not return to the mosque next day. He does not appear in any of the other proceedings except those of the 13th, when he voted for unconditional surrender and the indications are that he did not wish to provoke further resistance.

Allah Din (No. 10) was present on the 11th of April in the Badshahi mosque where he made an inflammatory speech. His connection with the principal accused is shown by his presence on the 12th at Duni Chand's house, where he made another violent harangue, a performance which he repeated at Duni Chand's suggestion on the 13th in the Town Hall. We have no doubt that he was a member of the conspiracy and committed an act of waging war.

Mota Singh (No. 11) made a seditious speech in the Badshahi mosque on the 11th April. He is a school master from Patiala and denies that he was in Lahore that day. We find that it is fully established that he was, and that it was he and none other who made the speech in question and this after he had realised the nature of the gathering. Had he taken no part in the proceedings,

it might be held that he only joined the mass meeting out of curiosity , but as soon as he made seditious speech himself, he thereby associated himself with the other speakers and by that act joined the conspiracy and committed an act of waging war

We convict Harkishen Lal, Rambhaji Dutt, Duni Chand, Allah Din and Mota Singh under sections 121 and 121A, Indian Penal Code, and sentence them to transportation for life and forfeiture We do not consider it necessary to record finding on other charges

Allah Din and Mota Singh are minor offenders, and had it been in our power we should in their cases have awarded much lighter sentences

If there is any excuse for the other convicts it can only lie in the encouragement, direct or indirect, which they received from Delhi and Bombay

The remaining accused are acquitted



APPENDIX III.

Proceedings in Privy Council

(1)—Amritsar National Bank Murder Case

(a) *Text of Petition*

The following is the full text of the petition of appeal to the Privy Council on behalf of Bugga, Rattan Chund Ghulam Hassan (son of Ida) Faqir Asadulla, Karam Chand Karam Baksh, Manohar Singh, Muhammadi Jani, Nizam, Feroze, Chiragh, Sadru Ghulam Hassan (son of Nakhwan) Inayat, Ghulam Rasul, Harman Singh, Mehr Saln, Sandhi, and Roshan petitioners, *Versus* the King-Emperor opposite party :—

To the King's Most Excellent Majesty in Council the humble petition of the petitioners above named sheweth —

1 Your petitioners, 21 in number are native British subjects living at Amritsar in the Punjab who have been sentenced to death, with the exception of your petitioner Ghulam Hassan (No 15) who has been sentenced to seven years rigorous imprisonment under Martial Law by a Special Commission purporting to exercise the powers of a Summary General Court Martial. Your petitioners, however are not soldiers or subject to Military Law and desire to obtain special leave to appeal from the sentences pronounced upon them in the circumstances following

2. On the 10th April, 1919, a riot took place in the city of Amritsar. The riot was over by the evening of that day. None of your petitioners were taken in arms or taken in the actual commission of any overt act of rebellion or otherwise taken in the act within the meaning of paragraph I of Regulation X of 1804, which Regulation confers powers to provide for the immediate punishment of the offences therein specified by sentence of Court Martial. By Act IV of 1872 passed by the Governor General of India in Council, Section 3, Regulation X of 1804 is declared

9. Your petitioners were tried by a Commission presided over by a Military Officer purporting to be appointed under Ordinance No 1 of 1919 with the powers of a Summary General Court Martial and sitting at Lahore on the 29th May 1919 and the following days. Your petitioners were prevented by a summary order of the Military Authorities which prohibited all persons from entering the area in which Martial Law had been proclaimed from obtaining the assistance of Counsel engaged by them. Your petitioners are of right entitled to be defended by Counsel under the provisions of Section 340 of the Code of Criminal Procedure (Act V of 1898) and your petitioners' defence was therefore seriously prejudiced.

10. On June 2, 1919, the said Commission purported to convict your petitioners, of offences under Section 121 of the Indian Penal Code and passed sentences of death and confiscation of your petitioners' property. The Judgment of the Commission marked A is attached hereto.

11. Your petitioners submit that the said Commission had no jurisdiction to try your petitioners for the offences under Section 121 of the Indian Penal Code or for any other offence under the Ordinances above mentioned, and that the Ordinary Courts were the only Courts which had jurisdiction to try your petitioners for any offence alleged to have been committed by them on April 10, 1919.

12. Section 72 of the Government of India Act 1915 confers upon the Governor-General a power to make Ordinances in cases of emergency but the power of making Ordinances under that Section is subject to the restrictions set out in Section 65 Sub-section 2, and your petitioners contend that the law and constitution therein referred to upon which their allegiance depends, is violated and set at naught by depriving them of a proper trial with full means of defence before Courts constituted for that purpose.

13. Your petitioners further contend that, inasmuch as Regulation X of 1804 deals solely with certain offences therein specified when committed by persons who are taken in the act of committing them the Commission appointed under Ordinance No. 1 of 1919 is in any case limited by this jurisdiction to trial of offences of this character and that upon its true construction Ordinance No. 4 of 1919, while increasing the retrospective effect of Ordinance No. 1 does not validly confer a jurisdiction to deal with offences of another kind. If any other construction is adopted your petitioners contend that Ordinance No. 4 and also Ordinance No. 1 are *ultra vires* and unconstitutional.

14. Your petitioners further contend that it is not competent to the Governor General to confer upon a new tribunal such as the said Commission a jurisdiction to try accused persons on the charge of having committed certain acts before the said Commission was created, and that a Court Martial or other exceptional tribunal substituted for it cannot lawfully and constitutionally deal with such cases inasmuch as proclamation of Martial Law itself cannot have a retrospective effect.

15 Your petitioners further submit that there was no evidence to warrant the conviction of your petitioners on the charges made against them, and that they are entitled to be pronounced innocent of the charges, and that a grave denial of justice has been perpetrated.

16 The present petition has been prepared on the materials which have already reached this country from India but these materials have only arrived at the last moment and may not be complete so that your petitioners desire to reserve the right to urge further objections to the validity of the proceedings and the jurisdiction of the Court when the complete record is available. Your petitioners therefore humbly pray that your most Excellent Majesty in Council will be pleased to order that your petitioners shall have special leave to appeal from the said order of conviction and sentences dated the 2nd June 1919 of the said Commission, and that the said Commissioners may be ordered to transmit forthwith the transcript of all proceedings and evidence of the said trial to the registrar of the Privy Council or for such other order as to your Majesty may seem just and proper.

And your petitioners will ever pray, &c

‘ A ’

[Here follows a copy of the judgment in this case, for which see Appendix II,
Page 114, Ante]

(b) *The Proceedings*

In the Privy Council before the Rt Hon Viscount Haldane, the Rt. Hon Lord Buckmaster and the Rt Hon Lord Atkinson

Between Bugga and others, (Petitioners) *Versus* the King-Emperor, (Respondent), on appeal from the Martial Law Commissioners at Lahore

The Rt. Hon Sir John Simon, K C and Mr B Dube, instructed by Messrs Barrow, Rogers and Nevill, appeared for the Petitioners

Sir Erle Richards, K C, and Mr Kenworthy Browne, instructed by the Solicitor, India Office, appeared for the Respondent.

Sir John Simon's Argument

Sir John Simon —My Lords, this is petition of twenty one subjects of the King, Natives of India, who have been sentenced, as regards twenty of them, to death, as regards the other one, to seven years' rigorous imprisonment, by a Special Commission, which is purporting to exercise the powers of a Summary General Court-Martial

Sir Erle Richards —The death sentence has been commuted in fifteen cases.

Sir John Simon —I did not know that that was the case. I suppose it has been commuted to penal servitude for life

Sir Erle Richards —I do not know

Sir John Simon —At any rate the remaining prisoners are still under sentence of death.

Viscount Haldane —How many are still under sentence of death?

Sir John Simon —Five at any rate are still under sentence of death

Sir Erle Richards —I have not been able to ascertain exactly how many. Certainly two are. There is a doubt about three others on the cables. Fifteen have certainly had their sentences commuted

Viscount Haldane —However it is a very serious matter?

Sir John Simon —Yes, my Lord in any view. The matter is not only very grave for these persons, but it is a matter I think of some constitutional importance and though the material on which this petition has been drawn have as I gather is also the case with my learned friend been derived largely by cable, and therefore may be a little fragmentary I think I shall be able with confidence to put the outline of the matter strictly before your Lordships. If your Lordships would be good enough to take the petition I have had it drawn in a way which I think will most clearly indicate what the points are. In the first paragraph we set out that the petitioners, 21 in number are native British subjects, living at Amritsar in the Punjab who have been sentenced to death, with the exception of your petitioner Ghulam Hassan (No 15) who has been sentenced to seven years rigorous imprisonment under Martial Law by a Special Commission purporting to exercise the powers of a Summary Court Martial. Your petitioners, however are not soldiers or subject to Military Law and desire to obtain special leave to appeal from the sentences pronounced upon them in the circumstances following. On the 10th April, 1919, there was a riot in the City of Amritsar

Viscount Haldane.—A question may arise as to the powers of the General Summary Court Martial

Sir John Simon.—Yes.

Viscount Haldane —And a question may arise whether the Sovereign in Council would review the proceedings of a General Court Martial. I have never heard of it being done.

Sir John Simon —I think we shall have to go through the story. I quite agree that may be a question. That particular point may be avoided by saying that this Special Commission, though it really derives its authority if it has any from a Regulation which provides for the trial of persons by Court Martial, is nonetheless composed of not three soldiers but one soldier and two civilians.

Viscount Haldane —What arrested my attention was something rather in your favour, that it is purporting to exercise the power of a Summary General Court-Martial.

Sir John Simon —Yes

Viscount Haldane —It may be still a court with the powers of a Court-Martial?

Sir John Simon —That I think, putting it roughly, will turn out to be the position, but nonetheless my clients are in the position of persons who have been dealt with under the conditions of Martial Law. “On 10th April, 1919, riot took place in the City of Amritsar. The riot was over by the evening of that day. None of your petitioners were taken in arms, or taken in the actual commission of any overt act of rebellion, or otherwise taken in the act within the meaning of paragraph 1 of Regulation X of 1804”—It will be necessary to look at that Regulation—“which Regulation confers powers to provide for the immediate punishment of the offences therein specified by sentence of Court-Martial. By Act IV of 1872, passed by the Governor General of India in Council, Section 3, Regulation X of 1804 is declared to be in force”—this was in the Punjab—“but this Regulation only confers power to punish civilian inhabitants by sentence of Court-Martial within the limits above indicated, and your petitioners therefore did not fall within it.” The point is this. Under Régulation X of 1804 which has just been given a continuing legislative operation it has been pointed out by a learned commentator and I think will be probably accepted as correct, that paragraph 2 of the Regulation is really strictly limited to cases in which the civilian is really taken in *flagrante delicto*.

Viscount Haldane —That is the Regulation of 1804?

Sir John Simon —Yes. May I read the recital first? I will read the first paragraph, which is really the recital. “Whereas, during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government, and whereas it may be expedient that during the existence of any war in which the British Government may be engaged with any power whatever, as well as during the existence of open rebellion against authority of the Government”—we are coming to a document which was issued by the Governor General, in which he recites that in his judgment open rebellion had occurred—“in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General should declare and establish Martial Law within any part of the territories aforesaid for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Govern-

ment who may be taken in arms, in open hostility to the said Government, or in the actual commission"—that means who are taken in the actual commission—of any overt act of rebellion against the authority of the same or in the act"—this is to say who may be taken in the act—of openly aiding and abetting the enemies of the British Government within any part of the territories above specified, the following Regulation has been enacted by the Governor General in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William from the date of its promulgation." Then Section 2:—The Governor General in Council is hereby empowered to suspend or to direct any Public Authority or Officer to order the suspension of, wholly or partially the functions of the ordinary Criminal Courts of Judicature within any zilla district city or other place within any part of the British territories subject to the Government of the Presidency of Fort William and to establish Martial Law therein for any period of time while the British Government in India shall be engaged in war with any native or other power"—of course that is not this case—as well as during the existence"—I lay particular stress on during the existence"—of open rebellion against the authority of the Government in any part of the territories aforesaid and also to direct immediate trial by Courts Martial of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection"—these 21 persons are certainly British subjects, and owe allegiance—

who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories." On that I make these two comments: first that the persons who are contingently subject of such a mode of trial are all persons who are taken in *flagrante delicto* and none of these 21 persons is in that position.

Viscount Haldane —Or in the act of openly aiding or abetting the enemy

Sir John Simon —Yes but *taken* governs all. These persons were not *taken* in the commission of any overt act at all. They were at their homes five or six days afterwards when they were arrested. The other point I make on Section 2 is this. Your Lordship notices that it is introduced by the power of the Governor General, in the case of an open rebellion to suspend wholly or partially the functions of the ordinary Criminal Courts of Judicature, and to establish Martial Law therein. The two things are related and the scheme of this power therefore is: first, it is limited to persons who are taken in *flagrante delicto* and secondly the extent to which you set up an exceptional tribunal is precisely the same as co-extensive with the suspension for the time being, of the ordinary Courts for dealing with such cases, and that, of course, is quite consistent with the well understood theory in our constitution here at home that in time of actual necessity when the immediate necessity is to deal with persons who are actually found in a state of rebellion it may be that on the principle of some sort of law of necessity

Viscount Haldane —Martial Law is not law. It is this that the Commander-in-Chief supersedes all the Courts. He in the exercise of his power tries them by Court Martial.

Sir John Simon —Yes, I am only anxious to show the limitation of that. Your Lordships will take it from me, perhaps without reading it, that there is a legislative provision.

Viscount Haldane —He may partially suspend. He may allow the Civil Courts to proceed in certain cases. A State can do anything. This is not quite consistent with the real theory of Martial Law. The Governor can do things which are analogous to Martial Law.

Sir John Simon —Yes.

Viscount Haldane —There was a case before this Board which I argued, and argued unsuccessfully, on appeal against the sentence of a Court Martial in South Africa, in which Lord Halsbury gave a famous definition.

Sir John Simon —Yes. It is a matter which has been the subject of much discussion since.

Viscount Haldane —There it was held that Martial Law had survived the hostilities, I think.

Sir John Simon —Not quite. At present I am not proposing to argue the matter, but to put before your Lordships in order five or six matters.

Lord Buckmaster —It sets up a special tribunal and imposes on that tribunal the obligation of passing one sentence, and one sentence only, on the people who are brought before it.

Sir John Simon —May I go on with my argument—though we may have to return to the consideration of the constitutional aspect of this? I had the South African case in my mind. I am pointing out that in paragraph 2 we say: Here is Regulation X of 1804, and on the true construction of that Regulation it is limited to the case of persons who are taken in the act of doing a number of specified things. It is confirmed by legislative provision of 1872.

Viscount Haldane —There is a remarkable provision in Section 4 which says that the Governor-General may direct people to be tried before the Ordinary Courts notwithstanding all this which by hypothesis would supersede it.

Sir John Simon —Yes it is curious.

Viscount Haldane —I do not suppose you are going to argue that the Governor-General could not get himself empowered to do all these things by the Indian Legislature.

Sir John Simon —That is not the point I am going to make at all. Your Lordships will come to the point.

Viscount Haldane —I only wanted to clear it out of the way.

Sir John Simon :—Your Lordships will understand that it will be important for the moment to see what is the extent to which Regulation of 1804 can go. I make the point that the Special Tribunal exceeded its powers. Then paragraph 3 —

‘ On the contrary, your petitioners were arrested while peaceably occupied at their homes, or otherwise some days after the riot was over ” It is perfectly plain that they were not taken in the act of anything. No copy of the charges against them is available but the accusation against your petitioners was that of committing an offence under section 121 and other sections of the Indian Penal Code (Act XLV of 1860) Section 121 is as follows:—Whoever wages war against the Queen or attempts to wage war or abets the waging of such war shall be punished with death, or transportation for life and shall forfeit all his property. Offences against the Indian Penal Code are tried by the Criminal Courts referred to in Section 25 of the Code of Criminal Procedure (Act V of 1858) and no jurisdiction to try by Court Martial is thereby conferred ” Now we come to the special provision:— On April 14th 1919—that is, eight days after the riot was over—

the Governor General of India purporting to act under Section 72 of the Government of India Act 1915—the case I have to present to the Board largely turns on considering that section and the related sections—made the Martial Law Ordinance No. 1 which came into operation at midnight on the 15th April 1919.—Then we have set it out in extenso and I will read it. Whereas the Governor General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the province of the Punjab ” The reason, no doubt, why that is recited is because Section 72 confers certain powers upon the Governor General to make ordinances in cases of emergency. Again, Your Lordship will remember that in Regulation V of 1804 there had been a reference to cases where it might be expedient during the existence of open rebellion to make certain provisions. So it recites — Whereas the Governor General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the province of the Punjab, and whereas the Governor General in Council has in exercise of the powers conferred by Section 2 of the Bengal State Offences Regulation 1804—that is the one Your Lordships have just looked at—suspended in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged the functions of the Ordinary Courts of Judicature within the districts of Lahore and Amritsar in the aforesaid provinces, and has established Martial Law in the said districts —that is the first half of Section 2 which I have just read to Your Lordships— and has directed the immediate trial by Courts Martial of all such persons charged with such offences ”—those offences must necessarily be offences that you are taken in the act of committing — And whereas an emergency has arisen which makes it expedient to provide that such trials shall be held in the manner and by the tribunals hereinafter provided. Now therefore the Governor General in Council in exercise of the powers conferred by Section 72 of the Government of India Act, 1915 is pleased to make and promulgate the following:—Ordinance Ordinance No. 1 of 1919. (1) This Ordinance may be

called the Martial Law Ordinance, 1919"—If the name has anything to do with it, there is no doubt what it is —“(2) It shall come into operation at midnight between the 15th and 16th April 1919 Every trial held under the Bengal State Offences Regulation, 1804”—that is Regulation X of 1804—“shall, instead of being held by a Court-Martial, be held by a Commission consisting of three persons appointed on this behalf by the local Government.” The President is a Military Officer, and the two others are Civilians

Sir Erle Richards —May I say this I do not think my friend knows the practice in the Punjab It is true the President was in the Army to start with, but Your Lordships are probably aware that in the Punjab Civil Service they take into their employ a number of Military Officers It was an old practice that began in troubled times. This gentleman has for 25 years been a Civil servant, and for a long time he has been acting as Sessions Judge

Viscount Haldane —Does he maintain his Military rank ?

Sir Erle Richards —Yes, he is a Major or a Colonel It is a question that has been much discussed, whether they ought not to abandon their Military rank on going on to the Bench

Sir John Simon —I am obliged to my friend for his explanation I was not aware of it “The local Government may appoint”—that means the Government of the Punjab—“as many commissions for this purpose as it may deem expedient. At least two members of every such Commission shall be persons who have served as Sessions Judges, or Additional Sessions Judges, for a period of not less than three years, or persons qualified under Section 101 of the Government of India Act, 1915, for appointment as Judges of a High Court The local Government shall nominate one of the members of the Commission to be President thereof A Commission shall be convened by the local Government, or by such officer as the local Government may authorize in this behalf A Commission shall have all the powers of a General Court-Martial under the Indian Army Act, 1911”—I know Lord Haldane is specially familiar with this subject matter

Viscount Haldane —It is a very different thing from a District Court-Martial.

Sir John Simon —Yes There are four kinds of Courts-Martial in the Indian Army system a General Court Martial, a Summary Court Martial, a District Court-Martial and a Summary General Court-Martial

Viscount Haldane —Is there a Judge Advocate in India who reviews the decision of Courts Martial ?

Sir John Simon —There is an express provision here that they are not to be reviewed.

Viscount Haldane —A Court Martial goes up for review to the Judge Advocate. That is the safeguard in Courts Martial, and here one would expect to see that there was some one who advised the Governor General separately

Sir John Simon :—I think it is clearly inference from paragraph 5 of the Ordinance—‘The finding and sentence of a Commission shall not be subject to confirmation by any Authority’

Sir Erle Richards :—The confirmation of a Court Martial is necessary under the Army Act. That is to take these proceedings out of the provisions of the Army Act.

Viscount Haldane :—Under the Indian Army Act confirmation is required ; is that confirmation by the Judge Advocate ?

Sir John Simon :—I think not : The finding and sentences of General Courts Martial may be—I think that really means must be—confirmed by the Commander in-Chief in India or by any officer empowered in this behalf by the warrant of the Commander in Chief in India.” I do not think there is a Judge Advocate.

Lord Buckmaster :—That means confirmation is necessary and those are the people who exercise the power ?

Sir John Simon :—Yes.

Sir Erle Richards :—There is a Judge Advocate

Viscount Haldane :—In time of war the power is handed over to the Commander in-Chief and it may be that in India they have taken the situation as more approximating to war than peace, and have handed it over to the Commander in-Chief in which case it is natural that they should say that no confirmation is required.

Sir John Simon :—It remains to be seen whether it cannot be reviewed by the Privy Council.

Lord Buckmaster :—Does this Ordinance do more than create a Court under the provisions of the Regulation of 1804 to exercise the powers that are there conferred ?

Sir John Simon :—I do not think it does, but I point out in the paragraph immediately following after I have set out in this document that this Ordinance would not have touched me at all, it is because it did not touch me that they made another Ordinance and tried to bring me in

Lord Buckmaster :—You would not be hurt by this Ordinance.

Sir John Simon :—No. Will Your Lordships look at paragraph 7 : Says as provided by Section 6 the provisions of this Ordinance shall apply to all persons referred to in the said Regulation.” My first way of putting it is, that I am not a person referred to in the Regulation.

Viscount Haldane :—Your alleged offence was on the 10th April

Sir John Simon —I am not on the question of date for the moment, though it is a second reason. I am not a person who has been *taken* in the act of open rebellion or anything whatever. I have been dealt with by this summary procedure although any case against me is an inferential case depending upon evidence, and not upon the fact that I was seen there with arms in my hands taking part in the actual violence.

Viscount Haldane —Your first point is, this tribunal does not suit your case.

Sir John Simon —Yes.

Viscount Haldane —Your second point I suppose is on the dates.

Sir John Simon —Yes, in any case my offence was an offence on the 10th April, whereas this was to be limited to persons who are charged with any of the offences therein described committed on and after the 13th April.

Viscount Haldane —I do not think any presumption should be made against the power of the Legislature to say that an offence really committed is to be tried not by such and such a Court, but by such and such another.

Sir John Simon —It is only one of the points I am going to develop in a moment.

Lord Buckmaster —The point applies to the second Ordinance as well.

Sir John Simon —Yes. I have not read paragraph 4. Will Your Lordships look at that? After providing that it is to have the power of General Court-Martial under the Indian Army Act, 1911, and “shall, subject to the provisions of this Ordinance, in all matters follow so far as may be the procedure regulating trials by such Courts Martial prescribed by or under the said Act,” it goes on “provided that where, in the opinion of the convening authority, a summary trial is necessary in the interests of public safety”—I have some difficulty in seeing how a summary trial could be necessary in my case, it appears now it was a little too summary—“such authority may direct that the Commission shall follow the procedure prescribed for a Summary General Court-Martial by or under the said Act, and the Commission shall so far as may be and subject to the provisions of this Ordinance follow such procedure accordingly.” Then it says that Sections 78, 80 and 82 of the Act are not to apply. I will tell Your Lordships what they are. Section 78 of the Indian Army Act is the Section which provides that every Court-Martial shall be attended by a Judge Advocate or somebody nominated by him, that is to say, a man who knows something about the way in which to present a case. This is explicitly removed from its application. Then Section 80 is a provision which entitles the accused to be asked whether he objects to be tried by a member of the tribunal. All that right of objection by the accused is removed. Then Section 82 is the provision that there is to be an oath of the President and Members before they try the prisoners.

So far I could not be hurt through, as I have pointed out in my paragraph 5.

It will be observed that this Ordinance No. 1 was given a retrospective effect, but it only applied to offences committed on or before the 13th April 1919. Inasmuch as the accusation against your petitioners was of offences committed on the 10th April 1919, Martial Law Ordinance No. 1 had no application to them. (6) As a matter of fact perfect order had been restored in the city of Amritsar by the 15th April 1919. The Civil Criminal, and other Courts throughout continued to administer justice in the ordinary course without any interruption, and there was in fact no ground for having recourse to Martial Law or to exceptional tribunals on the ground that the ordinary Courts were not discharging their functions. Nevertheless, your petitioners were not brought before the ordinary Courts of the country."—Then in paragraph 7 we say—On April 21st, 1919, the Governor-General of India, purporting to act under Section 72 of the Government of India Act, 1915 made a further Ordinance No. IV of 1919 which is in terms following:

Simla, the 21st April 1919. An Ordinance further to extend the application of the Martial Law Ordinance 1919. Whereas an emergency has arisen which renders it necessary to provide that commissions appointed under the Martial Law Ordinance 1919—that is No. 1 which your Lordships have just had—shall have power to try persons and offences other than those specified in the said Ordinance. Now therefore in exercise of the power conferred by Section 72 of the Government of India Act, 1915 the Governor-General is pleased to make and promulgate the following Ordinance:—No IV of 1919. 1. This Ordinance may be called the Martial Law (Further Extension) Ordinance 1919. 2. Notwithstanding anything contained in the Martial Law Ordinance 1919, the local Government may by general or special order direct that any commission appointed under the said Ordinance shall try any person charged with any offence committed on or after the 30th March 1919—that is moving the date back, and it says any offence a question will arise as to what is the true construction of that—and thereupon the provisions of the said Ordinance shall apply to such trials accordingly and a commission may pass in respect of any such offence any sentence authorized by law."

Lord Buckmaster :—Any offence " must be an offence as defined by the Regulation of 1804

Sir John Simon :—I venture to think so.

Lord Buckmaster :—That brings it back to the same position as the other

Sir John Simon :—If I am right in that view which I submit with some confidence, that is a conclusive objection to the regularity of this proceeding. It has been treated as though it has conferred upon this special commission the right to try a man for obtaining credit when he is a bankrupt or any other crime in the calendar and I venture to think it does not do anything of the sort.

Lord Buckmaster :—If you once depart from the Regulation of 1804, there are no limits.

Sir John Simon —That is what I mean “8 It will be observed that this later made Ordinance does not purport to suspend the operation or sittings of the Ordinary Courts” Section 2 is a thing which has two limbs Its principal object appears to be to extend the retrospective operation of Ordinance No. 1 so as to cover offences of still earlier date “9 Your petitioners were tried by a Commission presided over by a military officer” —I quite accept what my learned friend, *Sir Erle Richards* says, I call him a military officer, but I gather he will also be in the Permanent Civilian Service

Sir Erle Richards —He is a Sessions Judge, I think

Sir John Simon, —“With the powers of a Summary General Court Martial and sitting at Lahore on the 29th May, 1919, and the following days”

Your Lordships notice that this was more than a month after the Second Ordinance —“Your petitioners were prevented by a summary order of the Military authorities which prohibited all persons from entering the area in which Martial Law had been proclaimed from obtaining the assistance of Counsel”

Viscount Haldane —If you are tried by court martial you are not entitled to be defended by Counsel

Sir John Simon —I put it in the form of a dilemma I say either I am entitled to be tried as a person who is being tried under martial law, in which case I have some very serious objections to raise, or else I am being tried by something which is not Martial Law, in which case I am entitled to Counsel—one or the other

Viscount Haldane —It may be the true construction is this, that is a civilian tribunal which has all the powers of a court-martial, including the power to say the prisoners can have a prisoner's friend,

Sir Erle Richards —I do not understand my friend to say that the prisoners were not defended by Counsel The burden of their grievance is that they were not allowed to have certain Counsel up from Bengal My instructions are that they were defended by Counsel At any rate, they could have got Counsel in Lahore They wanted Counsel from Bengal and there were particular reasons why they wanted particular persons, but there was an order of the military authorities at the time that no persons from Bengal were to come into the Punjab

Sir John Simon —I rather infer that they got some professional assistance, but it was not the professional assistance, they wanted

Viscount Haldane —However, there is another answer, that the Military authorities had made an order that nobody was to come from Bengal into the Punjab

Sir John Simon, —Then paragraph 10 “On June 2nd 1919, the said Commission purported to convict your petitioners of offences under section 121 of the

Indian Penal Code and put sentences of death and confiscation of your petitioners property." I do not think your Lordships need look at the judgment for the moment. I wanted to put my points in order. Before I set them out would your Lordships look at Section 72 of the Government of India Act, 1915. There is nothing new in it but it will be convenient to look at it. The Governor-General purports to be making these Ordinances under Section 72. "The Governor General may in cases of emergency make and promulgate ordinances for the peace and good government of British India or any part thereof and any ordinance so made shall, for the space of not more than six months from its promulgation have the like force of law as an Act passed by the Governor-General in Legislative Council"—these are important words—but the power of making ordinances under this section is subject to the like restrictions as the power of the Governor General and the Legislative Council to make laws. Therefore, one asks oneself where shall one find the restrictions on the power of the Governor General and the Legislative Council to make laws. You will find that in Section 65 sub-section 2, which contains a provision which is not by any means new which has more than once been commented on and expounded, and which is really the protection for constitutional liberty in India. It is this: Provided, that the Governor General in Legislative Council has not unless expressly so authorized by Act of Parliament, power to make any law repealing or affecting (i) any act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act and any Act amending the same) or (ii) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India; and has not power to make any law affecting the authority of Parliament or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom or affecting the sovereignty or dominion of the Crown over any part of British India."

I submit it has already been so construed in India that what that refers to is this: It is a principle which is as old as Calvin's case. Allegiance and protection are reciprocally due from the subject and the Crown and the constitutional laws that provide for the liberty of the subject are the *quid pro quo* for the duty of allegiance. This is precisely the constitutional proposition which in a very famous passage Chief Justice Cockburn expounded in his charge to the Jury in the Jamaica Riots Case, the Queen *vs* Nelson. He there explains exactly the same proposition. He says that the reason why it is not constitutional to put civilians upon trial by Court Martial is this. Your Lordships remember that Nelson and the other accused persons had sat upon the Court Martial and sentenced somebody to death and he was shot, and they were subsequently tried for murder in this country. He points out, "the reason why a civilian cannot be put on trial by Court Martial, among other things, is precisely because you get the allegiance of persons to the Crown in a reciprocal relation with the constitutional guarantee of a

regular trial in the ordinary Courts of Law." It is rather interesting to notice that Chief Justice Cockburn anticipates, or at any rate speaks in exactly the same terms as Regulation X of 1804. He says, "Nothing that I am saying applies to the case where a man is taken with arms in his hands in the midst of a violent disturbance. He points out "in a case such as that it may well be that apart from any application of law the authorities, not because they are applying any law but because they are dealing with it from the necessities of the case, may have to shoot him out of hand. He is pointing out that there is this relation between allegiance on the one hand and constitutional protection on the other, and apparently that is exactly what is meant here when the Governor General is given certain very extreme powers. You see how extreme they are because Regulation X itself gives a very remarkable power but it is not a power that can be exceeded. Those words are to be given a meaning.

Viscount Haldane —Is the Queen's Nelson reported in the Law Reports?

Sir John Simon —I have here from the Inner Temple Library Chief Justice Cockburn's charge to the Jury, with some comments by Mr. Finlay, whose book is of great interest. I rather think your Lordship referred to it when you applied for leave to appeal in the South African case. I want to read two or three short passages.

Lord Buckmaster —I am always afraid that in fixing my attention too closely upon one point I may prevent my mind from grasping the real value of the others. Up to the moment, it seems to me that the real point in this petition is this, that the Governor General exercised powers conferred by the statute of 1804 and that he was entitled to do so.

Sir John Simon —Certainly.

Lord Buckmaster —The Order that he issued was an Order which purported in terms to relate and to relate only to those offences that were prescribed in the Regulation of 1804.

Sir John Simon —Yes.

Lord Buckmaster —The subsequent Ordinance that was issued did nothing except that it caused previous Ordinance to have a retrospective effect.

Sir John Simon —Yes.

Lord Buckmaster —You say the Regulation of 1804 has no application to you because according to its true construction the man must either be taken in arms or in an overt act of rebellion or an act of openly aiding and abetting the enemies of the British Government. You say none of those circumstances apply to your clients?

Sir John Simon —That is so. I agree to have rather moved from one point to the other. Before I submit what is really a separate ground, the ground of

Section 72 may I but a little expound the point which Lord Buckmaster has referred to. I want to point out that one has in these matters to be candid just as candid when one is opposed as when one is applying *ex parte*. It is a possible contention that Ordinance No. 1, the amending Ordinance, not merely increases the retrospective effect going back to an earlier date but that the reference to any offence brings in any offence in the calendar of criminal law. On that I make submission that it is not so and I point out this special reason why it could not be so.

Lord Buckmaster :—It is only the offences therein described

Sir John Simon :—Yes and there is this further reason. It is a direction that a Commission appointed under Ordinance No. 1 is to have certain powers. You see what the Commission under Ordinance No. 1 is. It is a Commission that is appointed to exercise the same functions as a Court Martial would exercise under Regulation No. 1 and therefore the two things will not fit. You get a Commission which is not rightly described if it is really to be regarded as authorised to run over the whole body of the Indian Penal Code.

Lord Buckmaster :—It is not any offence; it is any of the offences described in the previous Regulation.

Sir John Simon :—Yes

Lord Atkinson :—It alters the date but not the kind of offence.

Sir John Simon :—That is what I feel. Therefore I am in this opinion, that no single one of these 21 cases whatever may be said against the men and whatever the evidence may have been about which I know very little was a case of a man being taken in the act there described. It would follow if that construction was right, that there has been here a very grave misunderstanding of the Commission's powers.

Lord Buckmaster :—Is there any reference in the Second Ordinance that was issued except the reference in Section 2, to any offence?

Sir John Simon :—I have the advantage of having an alternative case. I am confining myself and it is much better to do so, to the first way of putting it which is the way Lord Buckmaster is now putting it to me. In that connection, may I give your Lordships one other reference, a reference which I venture to think is of very great interest. I owe this to the researches of my friend Mr. Dube. I have here a book which I have also got from the Inner Temple Library called Hough's Practice of Courts Martial. Captain Hough was a Deputy Judge Advocate General. This book was published at Calcutta in 1834.

Viscount Haldane :—This is with regard to Indian Courts Martial

Sir John Simon :—Yes

Viscount Haldane —I have never heard of this book

Sir John Simon —It is a book of great interest, 1834 is after Regulation X of 1804 It is pointed out by my learned friend that on page 345 of that book there is extracted an extremely interesting document which is addressed to the Secretary to the Government, the Judicial Department by the Advocate General of that time, a gentleman named Mr Spankie, relative to the Native Detachment Courts Martial at Cuttack from 14th September 1817 to 4th March 1818 He extracts the report there named What the Advocate General is saying is this. “(1) It appears from the documents referred to that Martial Law was put in force under the orders of Government by virtue of Regulation X of 1804 (2) The preamble of the Regulation states that it may be expedient, in certain cases therein mentioned, that ‘the Governor General in Council should declare and establish martial law for the safety of the British possessions, etc, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified’ (3) This enacting part conformable to the object developed in the preamble enacts” Then he sets it out Then he makes this comment

“Four overt acts are enumerated, and it seems to me quite clear that the word *taken* in the first, must, on necessary construction, be carried forward and annexed to each member of the sentence containing the description of the overt act ”

Viscount Haldane —Which section is he quoting there?

Sir John Simon —Section 2 He says the word “taken” is mentioned in the first of the four overt acts He says, it “must on necessary construction be carried forward and annexed to each member of the sentence containing the description of the overt act ” Then he says “Here the circumstances in which the Courts-Martial are to have authority*to try are clearly marked and defined The criminal must be taken in open acts of the treasonable and rebellious description mentioned. It seems to me also liable to some doubt whether the fourth overt act specified in the Regulation does not mean an aiding and abetting of such enemies of the British Government as are contemplated both in the preamble and in section 2—enemies with which the British Government may be engaged in war, —not the rebels with arms in their hands If there could be any doubt of the extent of the authority and jurisdiction of the Courts Martial under Regulation X of 1804, it would be removed by the instruction of 11th April 1805 communicated for their guidance to the authorities in Cuttack during the late disturbances These instructions, (paragraph, 4) say ‘If any person or persons charged with any of the overt acts of rebellion specified in Regulation X of 1804 shall be apprehended by any Military Officer when not in the actual commission of offences of that description they are to be delivered over by the Military to the Civil Power’

The Court Martial in Cuttack did not appear to have considered themselves as at all confined to the cases of prisoners taken in *flagrante delicto* or even to traitorous and rebellious acts of the specific quality stated in the Regulation. They seem to have acted as if they had possessed an unqualified jurisdiction over all treasonable and rebellious act without limitation of time, place or circumstance. The charge (confining as in all limited jurisdictions it ought to the cases in which the jurisdiction is given) does not state the circumstance of the criminal being *taken* in the fact or that it was in some open act of the treasonable rebellious quality which alone the Court Martial could lawfully try." Then he proceeds to discuss the cases. I am anxious to take the same points here.

Viscount Haldane :—To sum that up the word *taken* governs. Your case is that he must be *taken*?

Sir John Simon :—Yes.

Viscount Haldane :—Do you say *taken in arms*?

Sir John Simon :—I think the construction is ^{to} fairly clear.

Viscount Haldane :—You say they must be *taken in arms*?

Sir John Simon :—There are four cases. The first is that they should be *taken in arms*; the second case is *taken* in the act of opposing by force of arms; the third is *taken* in the actual commission of any overt act of rebellion and the fourth is *taken* in the act of openly aiding and abetting the enemy. That is not what happened here.

Lord Buckmaster :—In order to be quite clear about the effect of the second Ordinance is not this worthy of note that either it must be strictly limited to the offences under the Regulation of 1804, or it must have an indefinite application?

Sir John Simon :—Yes.

Lord Buckmaster :—Under the Regulation of 1804 the powers conferred by which are the powers that the Commissioners are to exercise and nothing else as far as I can see there is only one sentence, death.

Sir John Simon :—Yes.

Lord Buckmaster :—If therefore this were to refer to any offence, it would mean that if you caught a boy doing something silly in the street, you would have no alternative but to sentence him to death and to leave it in the power of the Viceroy to exercise the King's clemency to relieve him from a sentence which obviously could not be executed. That seems to be a patent reason why the second Ordinance can only relate to the offences mentioned in the first.

Sir John Simon :—I accept all that. It is right to point out, of course, that the second Ordinance does enact that the Commission may pass in respect of any

such offence any sentence authorised by law, but the only sentence that is really authorised by law is death. That is one way I put it. Though I am not attempting to discuss the matter, I want to point out that I have a second alternative which I venture to submit is just as powerful, and it is this. I impeach the authority of the Governor-General in Council to pass such an Ordinance as No. IV, if it has any wider construction than that. Supposing against me, on its true construction Ordinance No. IV does cover an offence which is against paragraph 121 of the Code, I think it will turn out that these men were arraigned simply on a charge of breaking paragraph 121 of the Code, in which case they are entitled to say these whole proceedings are *coram non iudice*. The three judges are sitting there with limited jurisdiction and they seem to have thought they could try these people for ordinary murder. That would be conclusive answer. But it is said, on its true construction the Governor General in Council in an emergency has power to pass an Ordinance which will empower a jurisdiction wider than Regulation X of 1804, then I say, granted that is so there may be such cases, but it cannot take the form of a proceeding against a man for what is in effect a breach of allegiance, while at the same time refusing to give him the constitutional protection which the law provides.

The constitutional protection which the law provides is as old as the Petition of Rights. This is the very thing which our ancestors insisted upon. I have traced it back a long way and the meaning of it is that although in times of emergency the Governor-General has very important powers which no loyal British subject would in any way seek unduly to cut down, still those powers are by the express terms of the statute limited by reference to Section 65 Sub section 2, and Section 65 Sub section 2 is a section which says that the unwritten laws and constitution of the United Kingdom of Great Britain and Ireland whereon may depend the allegiance of any person cannot in any way be affected. This has been raised in India. Your Lordships will find an interesting discussion on that in the 6th volume of the Bengal Law Reports. It is a case of *in re Ameer Khan*, Mr. Justice Norman says at page 452. "Now if it be true as laid down in Calvin's case, that *protection trahit subjectionem et subjectione protectionem*, that allegiance and protection are reciprocally due from the subject and the Sovereign, it is evident that the strict observance of the laws which provide for such liberty and security ensures faithful and loving allegiance of subjects. The infraction of such laws may be carried to such an extent as to give rise to the right of self-defence on the part of the subject, a right, which, says Sir Michael Foster, 'the law of nature giveth, and no law of society hath taken away.' No man can study the history of England or can read the great judgment passed by the High Court of Parliament by the Bill of Rights on King James, II, without seeing that on the faithful observance by the Sovereign of the unwritten laws and constitution of the United Kingdom, as contained in the great Charter and other acts which I have mentioned, depend in no small

degree the allegiance of the subject. It would be a startling thing to find that rights of so sacred a character could be taken away by an act of the subordinate legislature.

Viscount Haldane :—My criticism upon that is that it is so general and vague that there is hardly a thing in our constitution that would not come against this. Does not that mean the power of the Crown with regard to naturalization and with regard to the denial to a man of his specific rights as a British subject?

Sir Erle Richards :—Your Lordships may remember that this argument was before the Board very recently in the case of *Mrs. Besant*.

Viscount Haldane :—Did Lord Phillimore in his judgment say anything about it?

Sir Erle Richards :—There is a passage in 46 Indian Appeals.

Viscount Haldane :—Lord Phillimore gave a very elaborate judgment.

Sir Erle Richards :—Yes. May I read one passage on this point? *Mrs. Besant* had raised the point in regard to the Press Act. Lord Phillimore giving the reasons of the Board said. It was contended in the High Court and before this Board that it was beyond the competency of the Indian Legislature to enact Section 23 and possibly even to enact the Press Act. This argument which was mainly founded upon the language of Mr. Justice Norman in the case of *Ameer Khan* (6th Bengal Law Reports at page 451) received some encouragement from the O.C.J. But their Lordships find themselves unable to appreciate it.²⁰

Viscount Haldane :—The Press Act was an Act interfering with the liberty of the subject simply.

Sir Erle Richards :—Yes.

Viscount Haldane :—I want to see how allegiance comes in here. What this Act does is to set up a special tribunal.

Sir John Simon :—I think it is rather more than that. I should submit that it would be strictly correct to say that it is part of the constitution and indeed part of the unwritten law of the Kingdom upon which allegiance depends at any rate in some degree that subjects should be tried in the ordinary course of law and that civilians should not be submitted to the tender mercies of what is in effect a Court Martial.

Viscount Haldane :—What connection has that with allegiance except that it may shake the allegiance?

Sir John Simon :—That is the connection.

Viscount Haldane :—To that extent every change of law does

Lord Atkinson —Supposing there is a statute making a certain thing a crime that was not a crime before?

Sir John Simon —That would be an example.

Viscount Haldane —It is done daily in this country. Look at the Children's Act, for instance. Parents were put under restrictions with regard to their children.

Sir John Simon —May I read one or two passages from Chief Justice Cockburn's charge, which has been referred to already? They do bear very directly on the point I am making. I am merely selecting two or three passages because Your Lordships do not want the whole matter argued out now. On page 29, Chief Justice Cockburn is addressing the jury in these terms: "But on the other hand, I think it impossible to entertain a shadow of doubt that these proceedings were utterly illegal. If it be true that you can apply Martial Law for the purpose of suppressing rebellion, it is equally certain that you cannot bring men to trial for treason under Martial Law after a rebellion has been suppressed. It is well established according to the admission of everybody, even of those who go the farthest in upholding Martial Law, that the only justification of it is founded on the assumption of an absolute necessity—a necessity paramount to all law and which, lest the commonwealth should perish, authorises this arbitrary and despotic mode of proceeding, but it never has been said or thought except perhaps by King Henry VII that Martial Law could be resorted to when all the evils of rebellion have passed away and order and tranquility had been restored for the mere purpose of trying to punish persons whom there was no longer any sufficient cause for withdrawing from the ordinary tribunals and the ordinary law."

The other passage which I have noted is on page 47, where the Chief Justice says: "I have now gone through the history of this country so far as relates to Martial Law. I believe I have mentioned every instance in which Martial Law has ever been proclaimed or been referred to. But I own that on this point I speak with considerable diffidence, for I cannot claim to have made history my special study, and my researches on this particular matter have necessarily been confined to the intervals of constant and severe judicial labour and historians may therefore very likely be aware of facts which have escaped me, but so far as I have been able to discover no such thing as Martial Law has ever been put in force in this country against civilians for the purpose of putting down rebellion."

There are other passages which I need not trouble about now. My other point is a good one, but I do certainly desire to have the opportunity of developing, as I think it might be developed, the argument that supposing it could be said,, ,

Lord Buckmaster —It is much more serious thing than the other

Sir John Simon —It is, supposing it might be said that the second or those Ordinances, so far as its true construction goes, confers upon this wholly exceptional tribunal a power to sentence people to death because at some previous date it is said that there is evidence to show that they took part in a disturbance then I do most respectfully submit that a subordinate legislature which is given certain limited powers by the Government of India Act has no power to do any such thing

Viscount Haldane :—I do not know what Sir Erle Richards is going to contend Subject to that, my impression is that the second of those Ordinances merely dealt with the offences cognisable under the Commission set up by the first Ordinance and that it did not set up a new set of offences. Is it your case that it did Sir Erle Richards?

Sir Erle Richards —The view that I shall present is that the first of those Ordinances did not enlarge the nature of the offences, but the second one did

Lord Buckmaster —Your case is that any offence, there means any offence of any sort or kind.

Sir John Simon :—Then Your Lordships appreciate I am relying upon my second string I can see if that argument was ever likely to prevail, I should be in a strong position for saying there is plainly a limit put by the constitution of India upon the powers of the Governor General in case of emergency to promulgate ordinances This is the limit. It is not competent to the Governor General, because there is an emergency to provide three Judges nominated by a District Government to try a small boy for stealing an apple and sentence him to death.

Viscount Haldane :—I think you have a strong argument for saying that the construction of the second one is one which excludes it. If it was intended to give any such power as that, the second Ordinance is far from clear: "Notwithstanding anything contained in the Martial Law Ordinance, 1919, the local Government may by general or special order direct that any Commission appointed under the said Ordinance shall try any person charged with any offence committed on or after the 30th March, 1919." Are not these offences *quodam generis* with the offences cognisable under the other one?

Sir John Simon :—I think so This greatly strengthens the argument that the amending Ordinance is dealing with a Commission already constituted

Viscount Haldane —It may be, the view of the Government of India is that they wish the question raised and argued; but if they wish to raise

any thing so big that a boy may be tried and sentenced to death for stealing an apple, one would have thought they would have put it in explicit terms.

Lord Atkinson —If it is not confined to the earlier offences, it extends to any offence

Sir John Simon —Yes I submit that at any rate it is in the circumstances not right that these very severe penalties in the case of some of these men who, in spite of the remission in the case of others, are still under sentence of death should be imposed and carried out. We were under the severest restriction of time. We were told if we did not get leave to appeal to day, the sentence would be carried out.

Viscount Haldane —Let us separate the points. The first is that the offences are limited to the offences cognizable under the first of the two Ordinances.

Sir John Simon —Yes, and in that connection I put it, that when arrested these men were peaceable at their homes. They were not taken *in flagrante delicto* in any sense. Secondly, I may point out that if upon any proper construction the Ordinances under which this alleged jurisdiction had been conferred on this tribunal is so wide as to deal with other offences, it must deal with any and every offence which by general or special order the local Government chooses to direct the Commission to deal with. That is exactly the thing which the Petition of Rights says cannot be done. It is almost in these words. The Petition of Rights says that the Authorities, the Crown, the Executive, have directed Commissions to try persons for various offences and it proceeds to set out that that was unconstitutional and contrary to law, and that is the thing which as long ago as 1628 was declared to be a breach on the part of the Executive of the duty of protection which is correlative with allegiance. I submit on its true construction the second Ordinance merely carried the time further back. May I call attention to the other points I make? I also make this point. I submit, that an exceptional Tribunal cannot be substituted for the ordinary law here, so that it can deal with retrospective matters, among other things for this reason that a Proclamation of Martial Law itself cannot have any retrospective effect. Chief Justice Cockburn points out in his charge to the jury, to which I have referred. A Proclamation of Martial Law may by way of warning have an operative effect from the time of the Proclamation, but it cannot in itself confer jurisdiction which did not exist before to deal with matters which have already passed.

Viscount Haldane —Let us suppose the construction were this, that the powers are the existing powers which are simply handed to the Commission to apply, the offences are not new offences but only the mode of trial is new and exceptional. The Viceroy sets up this Tribunal, and he says it is to try people for all offences committed since a certain date in March.

Sir John Simon —It is a separate point and not a point necessary for me at this stage but it is a point I want to save because when one reads Regulation No. 1 of 1804 a question will arise as to what is the meaning of conferring jurisdiction upon a special Tribunal to deal with persons who shall be taken in arms. It may be that the meaning of it is that you are to suspend the ordinary law. There might be a Proclamation warning every body that a very exceptional situation had arisen and then saying that anybody who is taken with arms in their hands or is in open rebellion is going to be dealt with by drum head Court Martial. It is a very different proposition to say that a Proclamation could be made saying that something that a man did three days ago was going to be dealt with by an exceptional Tribunal. I have raised I think sufficient grounds for the purposes of to-day.

Lord Buckmaster —I suppose there will be this answer on your first point. They are going to say that the second Ordinance was passed under the Statute of 1915, and that they did not attempt to rely upon the power given by the 1804 Regulation as they did in the first and secondly they must have intended to cover something which the first Ordinance did not cover.

Sir John Simon :—Yes

Lord Buckmaster :—What do you say to that?

Sir John Simon :—I say first of all the amending Ordinance No. 4, the Martial Law Amending Ordinance is in terms dealing with a Commission appointed under Martial Law Ordinance No. 1.

Viscount Haldane :—And it is to extend its application?

Sir John Simon —Yes. You must therefore say: What Commission is this about which you are speaking? You find it is a Commission which is given a jurisdiction subject to a limit of date within the ambit of Regulation No. 1 of 1804.

Lord Buckmaster :—That is not quite what is in my mind. I think what can be said against you is this: If the object of this second Ordinance was merely to make the first Ordinance retrospective it would not be necessary to invoke the powers conferred by Section 72 of the Act.

Sir John Simon —It has been done in both cases. The same thing has been done. It gets rid of that difficulty. There is no question that it is done under Section 72.

Sir Eric Richards —The Governor-General can only make Ordinances under that section.

Lord Atkinson —The first Ordinance comes into operation on the 15th and 16th April and it takes cognizance of all offences committed after the 13th April.

Sir John Simon —Yes The only other thing I wanted to mention is this Sometimes when petitioners are able to get leave to appeal from Your Lordships, they are limited to the grounds which they indicated in their petition I hope that Your Lordships, if you are minded, after hearing the argument, to give leave, will not limit me in that way, because really the matter has come to our knowledge very recently We are dealing with fragmentary materials, and we should go into the matter more fully if Your Lordships give leave, and put forward any further grounds which occurred to us

(Counsel and parties are ordered to withdraw and after a short time are called in again)

Viscount Haldane —Sir Erle, as at present advised, there is one point on which their Lordships want you to satisfy them that there has been no miscarriage of justice, that is that the second Ordinance enlarges the powers under the first, because if the powers under the first are not enlarged they do not extend the time unless a person is taken in the act Will you confine yourself to that point? Really, it is a very formidable point. If we give leave to appeal here, we should not be able to confine, or think it right to confine, the appellants with regard to the other points which come in incidentally, although it may be that we should not have given leave on those points

Sir Erle Richards' Argument

Sir Erle Richards appearing on behalf of the Secretary of State —I am very well aware of the very great importance of this point, because these are not the only men who have been sentenced by this sort of Tribunal There was a very general rising in the Punjab, and a number of Europeans were murdered I want Your Lordships to remember that it is a matter of great importance

Viscount Haldane —We realise that

Sir Erle Richards —Everybody who has been convicted would then have a right of appeal to this Board

Lord Buckmaster —No, only the people who have been convicted when they have been seized otherwise than *flagrante delicto*

Sir Erle Richards —That is a large number

Viscount Haldane —All we can do is to look at the Ordinances.

Sir Erle Richards —It is really such an extremely short point that I do not want to press it, if Your Lordships think there is a case to be argued, but the arguments I shall advance, if this case is to be argued in detail, are these.

Lord Atkinson —In its terms, Ordinance IV extends to everything It can never have been intended to extend to everything You must look for some restriction and the only place you find it, as it seems to me, is in the Regulation of 1804

Sir Erle Richards :—May I put it in this way?

Lord Atkinson :—Where do you find the restriction? It cannot be intended to extend to every crime.

Lord Bristow :—What you want is to avoid the Board expressing any definite opinion if we thought it was a proper case for argument on appeal.

Sir Erle Richards :—I do want to put the sort of arguments, that I shall advance before Your Lordships. I think the whole thing turns upon this Ordinance. We are not dealing with Martial Law but a statutory enactment.

Viscount Haldane :—In a most significant way the Governor-General in Council has referred to the Bengal State Regulation of 1804. It would have been perfectly open to him to have said— "Under my powers of 1915 I make a new Ordinance" instead of which he says "I refer to the Bengal Regulation."

Sir Erle Richards :—May I read this last Ordinance because I think it turns largely upon that. It is very short. It begins in this way: "Whereas an emergency has arisen which renders it necessary to provide that Commissions appointed under the Martial Law Ordinance 1919 shall have power to try persons and offences other than those specified in the said Ordinance."

Viscount Haldane :—The purpose is established by the fact that the persons charged with offences were to be persons charged with offences committed after April 12.

Sir Erle Richards :—I submit the ordinary way to construe it would be that every person "means persons other than those taken in the act, and so forth."

Viscount Haldane :—If the Governor-General made such a revolutionary change in the law and said that everybody was to be tried for stealing a pair of boots or getting drunk in the streets before this Commission by Martial Law would not he have said so?

Sir Erle Richards :—I do not think the Ordinance gives that power at all. If your Lordship would look at paragraph 2, what it says is this: "Notwithstanding anything contained in the Martial Law Ordinance 1919, the local Government may by general or special order direct that any Commission appointed under the said Ordinance shall try any person charged with any offence committed on or after the 30th March, 1919." That is the thing which is to be found all through the Indian legislation. You give the local Government the power of sending offences for trial to this Commission.

Viscount Haldane :—The Criminal Law is the same all over India: there is a general Code for the Criminal Law which is applicable to India generally. Is it not very extraordinary if there is to be a change in the nature of the Courts, that it should go over to the local Government?

Sir Erle Richards.—No, I think not. I could find cases where there are exceptional things to be dealt with and the local Government is given the power of deciding whether those cases should be exceptionally dealt with.

Viscount Haldane —This is much wider, this is saying that the local Government shall have the power to direct that a man charged with the offence of embezzlement is to be tried by Court Martial. I should have thought they would have said so if that was intended. It is a matter of very high policy to give that power to the local Government. I am only referring to one of the possibilities of the system.

Sir Erle Richards —It is from the point of view of the Indian State, because possibilities of the construction are that the change to the local Government was meant to prevent these offences being submitted to this Special Tribunal. All through the Indian Statute books you find this sort of discretion vested in the local Government. The local Government has authorised the trial of any person before this Commission. You may say it is a wide power, but it is not an unreasonable power, because the Lieutenant-Governor will settle whether the case is a proper one to be tried or not. That, I submit, is not an unreasonable construction.

Lord Atkinson —It is an authorised provision?

Sir Erle Richards —If it is a statute it is authorised. I will deal with that point in a moment. The Indian legislative body has ample power to make these provisions. I think I can satisfy your Lordships on that point.

Viscount Haldane —It is worded in such a way as to be susceptible of two constructions, and to my mind the limited construction is just as natural for the words as the wider one. That being so, the change purported to be made points to the limited construction.

Sir Erle Richards —At this stage I do not want to prolong the argument.

Viscount Haldane —I am very anxious that this Board should not express any definite view on it, but leave it perfectly open. Do you not think under the circumstances that as there is great doubt about the matters it had better be brought here?

Sir Erle Richards —If your Lordship thinks there is great doubt, I shall not say anything further about it.

May I say one word upon the other aspect of the case, and only one word? That argument on the construction of the section has been advanced in many cases; but it has never received any support in India, except in Mr Justice Norman's judgment, and that was upset by the Court of Appeal although they decided the case on another point.

Viscount Haldane —I can understand the objection to giving leave to appeal to raise that question, and if it stood alone, it would be possible that we should have

given leave on it but if this case comes here of course consistently with the proper administration of justice we should allow them to raise it; but we are not encouraging it

Sir Erle Richards.—I am obliged to your Lordship. This is a question which does not affect only these Courts during the war. From 1915 there have been a large number of these bodies. This body is one of many such bodies which have been sitting continuously under an Act called the Defence of India Act. It would attack a great deal that has been done in India for many years past.

Viscount Haldane.—We should not give leave upon that point.

Sir Erle Richards.—I am obliged to your Lordship. I derive encouragement from that expression of opinion. May I add one word? It is open to my friend to raise questions upon the facts in this sense that he may point out that there was some mistake of law. That of course will be open to him. I would only ask on behalf of the Secretary of State that we may have reasonable notice of the points that my friend intends to raise because it may be necessary for us to give evidence.

Viscount Haldane.—You will give that undertaking Sir John?

Sir John Simon.—Certainly. I am sorry I cannot indicate more precisely now what my points will be, but my friend knows that we are acting under a severe restriction as to time.

Sir Erle Richards.—I am not complaining because I have not the record, and I know nothing about what happened below.

The Judgment

Viscount Haldane.—We think under the circumstances it is right that there should be leave to appeal. This Board, as we have often said is not a Court of Criminal Appeal, but there is a class of cases which is generally defined as the class of cases which falls within the category of what the Board laid down in *Dillet's Case*, in which they do advise the Sovereign to interfere where there has been a miscarriage of justice, referred for its meaning to the fundamental principles of justice; for instance if there has been anything *coram non iudice*, that is a case in point. If the argument that has been addressed to us here is right the case has been *coram non iudice*. There is one point, at any rate on which we think that there is a serious point to argue, without expressing any opinion upon it; and that is that the second Ordinance has not extended the scope of the first Ordinance and the first Ordinance is limited to cases, where the defendant is taken *flagrante delicto*. There are other points besides that; there is the question of whether this could have retrospective action; that is quite another point. Then there is the question as to allegiance, to which reference has been made. I do not say whether we should have given leave to appeal on these points; as regards the allegiance I think we should have been reluctant to do so, but it must be open to the appellants, when they come here, to argue these points. We do not express any opinion except that we think that

within the principles of Dillet's Case we are bound to advise the Sovereign that there should be a scrutiny of what has happened with a view to ascertaining whether there has been a miscarriage of fundamental principles of justice.

Lord Buckmaster —I hope nothing I have said will be taken as expressing any considered opinion

Sir John Simon —We quite understand that.

Sir Erle Richards —That will be taken as applying to anything that may have been said on the other point I have taken

offences committed by persons who are taken in the actual commission of those offences, taken in actual rebellion and so on. The point which we took in July last on behalf of Bugga and the others was that presumably under some misapprehension the Special Tribunal which had been set up was purporting to sentence people who had never been taken in *flagrant delicto* at all but was acting as though it was a Court Martial authorized by the Law of India to try persons on evidence from which it was sought to draw the inference that in fact they had been concerned in these outrageous and outrages. We contended that that was wholly contrary to the true view of the powers which the tribunal had or indeed the powers which the Legislature in India would have to exercise and, secondly after that had been explained, Lord Haldane said—Lord Buckmaster also made a number of observations—that certainly there must be leave to appeal granted. Lord Haldane said— We think under the circumstances it is right that there should be leave to appeal. This Board, as we have often said, is not a Court of Criminal Appeal but there is a class of cases which is generally defined as the class of cases which falls within the category of what the Board laid down in Dillet's Case in which they do advise the Sovereign to interfere where there has been a miscarriage of justice referred for its mission to the fundamental principles of justice; for instance if there has been anything *coram non iudice* that is a case in point. If the argument that has been addressed to us here is right, the case has been *coram non iudice*. There is one point, at any rate, on which we think that there is a serious point to argue without expressing any opinion upon it, and that is that the second Ordinance—"I will explain in a moment what is meant by this— has not extended the scope of the first Ordinance and that the first Ordinance is limited to cases where the Defendant is taken *in flagrant delicto*."

I must explain the matter a little more in detail. The position is this. These men were charged with having committed these serious offences, sedition and the like on dates—it is material to notice the dates—which range from, I think, 6th April to 12th April. The latest date charged is 12th April and no doubt in point of date that is quite accurate. Normally speaking anybody who commits the offence of sedition on 12th April has to be tried in India by the ordinary constitutional process before a Criminal Court. At a later date there was enacted Martial Law Ordinance No. 1. Your Lordships have it in a form of an exhibit marked A which is described as "An Ordinance to provide for the trial of persons charged with offences under the Bengal State Offences Regulation 1804." Stopping there for a moment, since the Bengal State Offences Regulation, 1804, is limited to cases where persons are taken with arms in their hands, the first Ordinance would not touch my client because, he was arrested long afterwards in a different part of India. Your Lordships will see it recites "And whereas the Governor General in-Council has in exercise of the powers conferred by Section 2 of the Bengal State Offences Regulation 1804, suspended in respect of offences described in the said Regulation. That is the Regulation of 1804, and your Lordships will see it is the offence of being taken in arms in open hostility to the British Government, or in the act of opposing by force



Mr Labh Singh, M A (Cantab)
Bar-at Law, Gujranwala (Sentenced to
transportation for life and
forfeiture of property)



Lala Amar Nath, Vakil, Gujranwala
(Sentenced to transportation for
life and forfeiture of property)



M- Matullah, Vakil, Gujranwala
(Sentenced to transportation for
life and forfeiture of property)



Lala Ratan Chand, Amritsar
(Sentenced to death).



Pt. Rambhaji Datt Chowdhry, Vakil
Lahore (Sentenced to transportation
for life and forfeiture of property)



Lala Gowardhan Das, Lahore (Sentenced
to rigorous imprisonment for 3 years
and Rs. 1,000 fine)



(Diwan Mangal Sen Gujranwala
(Sentenced to transportation for life
and forfeiture of property)



Chowdhri Bugga Mal, Amritsar
(Sentenced to death).

of arms the authority of the same, or in actual commission"—that is taken in the actual commission—"of any overt act of rebellion against the State or in the act"—that again is taken in the act—"of openly aiding and abetting the enemies of the British Government."

Therefore, that Regulation of 1804 is one which does after a proclamation of Martial Law justify a wholly abnormal Tribunal constituted for the purpose of administering Military Justice, or as it is called, Martial Law, whatever Martial Law is, because you are dealing with people who are taken in the offence That is all this first Ordinance has done

Lord Phillimore —What do you say to the end of Section 2 of the Regulation of 1804? If it covers the same ground I think the language is wider there "And also to direct the immediate trial, by Courts-Martial, of all persons owing allegiance to the British Government,"—I omit the next words—"who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories" Those seem rather stronger words than the other words.

Sir John Simon —Be it so, but they would not be large enough to cover the case of a person who is taken long after I am pointing out that Ordinance No. 1 could not touch me, because the charge which was made against me is not within Section 2 of the Bengal State Offences Regulation, 1804, at all Not only so, but your Lordships will observe in Section 1 of the Ordinance it provides "This Ordinance may be called the Martial Law Ordinance, 1919" Then it says "It shall come into operation at midnight between the 15th and the 16th, April, 1919" Therefore, not only of course is the whole subject-matter as regards the kind of crime to be investigated, one which is not wide enough to cover the offences which these people are said to have committed, but since everything they did was finished and done with by 12th April this first Ordinance in any case would not do much then Thereupon, at a later stage there was a second Ordinance No. 4, which reads as follows "Whereas an emergency has arisen" and so on One of the points about this is that on the face of it it is retrospective "Notwithstanding anything contained in the Martial Law Ordinance, 1919, the Local Government may, by general or special order, direct that any Commission appointed under the said Ordinance"—that is the Commission to try people who have been *taken in the act*—"shall try any person charged with any offence committed on or after 30th March, 1919," Our submission before the Board in July last was, that on its true construction this second Ordinance, which I have just read, no doubt places the date further back, but it does not upon its true construction confer upon the Court-Martial the right to try a boy for stealing apples, or for any other crime in the Calendar, but as regards the kind of offence that the Tribunal has to deal with, the kind of offence is still the offence that was to be dealt with in the earlier Ordinance, and all that it does, and purports to do is, to give a jurisdiction

for trying persons who were proved or will to have committed offences which fall within the definition in the Regulation of 1834. It has been treated as though the effect of the second Ordinance was to give this Court Martial jurisdiction to try people for offences under the Indian Penal Code of different sort and kind. Your Lordships will see from the shorthand notes that the matter was fully discussed—I submit I am in as quite strong a position as the other petitioners were.

Lord Shaw of Dunfermline—It is desirable in these cases that nothing shall fall from us except what is absolutely necessary. Mr. Kenworthy Browne, would you assent to the proposition that the main ground of argument submitted to this Board and admitted to as good reasons for leave to appeal is a ground which occurs in the present case?

Mr. Kenworthy Browne—Yes, my Lord, I do.

Sir John Simon—Then that really is all I need say. Really the matter was recognised on the previous occasion by those representing the Government of India. Sir Erle Richards on the previous occasion, speaking on behalf of the Government of India, will I want your Lordships to remember that it is a matter of great importance. (Viscount Haldane) We realise that (Sir Erle Richards) Everybody who has been convicted would then have a right of appeal to this Board. (Lord Buckmaster) No. Only the people who have been convicted when they have been seized otherwise than in *flagrante delicto*. That is exactly my case. What I ask for therefore is leave to appeal, though this is a criminal matter to the King in Council. I understand that the first case in which we got leave to appeal is one which will shortly come before this Board; and if I am given leave to appeal in the present case then I shall be in a position to promptly take advantage of the decision in the first case if the decision in the first case should be in favour of the accused persons, otherwise these people will be detained and have to begin after the first case has been decided.

Lord Shaw of Dunfermline—Before you conclude, Sir John, would you give us your view on this alternative, namely on the assumption that you are correct, and that must be taken to be so, because Mr. Kenworthy Browne has assented to your view.

Sir John Simon—Yes, my Lord, I am obliged to my friend.

Lord Shaw of Dunfermline—As a matter of procedure, would it make any difference to these accused until the trial of Bugga Case?

Sir John Simon—I would put it in this way. I should submit that the proper course, with great respect to the Board, would be in the first place, to give me special leave to appeal. That puts me before the King. Then if those representing the Government of India are prepared to undertake that the Bugga Case, as far as they are concerned, shall be brought on as rapidly as possible, as I assume it will

be, and secondly, in the event of the decision being, that the trial was *coram non jure*, that thereupon they will co-operate to get these other convictions quashed forthwith, I shall be content. I should not in the meantime think it right that one should begin to accumulate all the material and evidence, and all the rest of it, for making up a Record, but one has to remember that these people are in fact in custody serving a sentence, and, therefore I must be assured that the executive who otherwise I understand would not be in a position to let them out—I want the conviction quashed not a pardon—I will be prepared to rest upon the decision in the Bugga Case if it is in my favour for the advantage of these other people, the appeals coming on without any opposition and the appeals being allowed. There are two steps, of course. I have first to get over the difficulty that generally speaking the King in Council does not give leave to appeal in a Criminal case. That is the first step. That step I submit I am entitled to take to-day. But if I am to go on and say, now that I have got leave to appeal to the Privy Council, I am entitled without delay to have the Record made up to have the exhibits and all that, I think it would be unreasonable. I have said the right course was, the authorities requesting, on leave being given to undertake before the Board first that the Bugga Case should come on as promptly as possible, and secondly, as soon as that is decided, if it is decided in favour of the appellants, that they will co-operate to bring on these other appeals which will then be open.

Lord Phillimore.—You are asking, not only for leave to appeal, but to put them on further terms. You cannot ask that to-day.

Sir John Simon.—I only mean this, my Lord. If I get leave to appeal and nothing more is said, then I shall be entitled under the order which the Board will make, to say to the authorities, please collect the Record and send it over and so on, I want to get ready. I hope I may be able to avoid that.

Lord St. John of Dunsfearn.—Mr Kenworthy Browne, the demand made here on behalf of these persons is a demand or right to be released. They cannot be released except by a Government act of clemency, unless they are released in course of law. They demand to be released in course of law, and it occurs to some of us, it occurs to me, that even although the Bugga Case were held to be in point and to rule this, they could not obtain their legal release as a right except the stage is traversed of their getting leave to appeal. Unless they got leave to appeal, they are not in forum to ask any advice from this Board to his Majesty, and therefore, after all it does seem to me, if you are agreed upon the facts and the binding authority one way or another of the Bugga Case to be of advantage to postpone the getting of leave to appeal, we should be glad to hear you.

Mr Kenworthy Browne.—My Lords, I have only one word to say about that. Apparently there is no reason why the Bugga Case should not be disposed of this sittings. I have made enquiries about it from the point of view of the India Office, and it is more than likely that the case be put down, if your Lordships

permit it, before the end of the present sitting. If that is taking a too hopeful view it will certainly be set down at the beginning of next sittings. Meanwhile there are these three cases, and I am told there are a great many more, two dozen has been suggested to me as a number that are coming on.

Sir Ameer Ali—They are all on the same basis?

Mr Kenworthy Browne—Yes. I am taking the same point namely that the Ordinance of 1919 is limited by the terms of the Regulation of 1804, which is a point to be argued if your Lordships were to direct that these applications should stand over until the main question is settled which I hope it will be quite soon then the position will be that a great deal of expense will be saved a great deal of time will be saved and the labour of the preparation of all these numerous records will be saved. That really is the only point.

Lord Phillimore—I have been thinking that it would be putting the appellants to unnecessary expense as well as the Government of India if we were to grant leave now. One would expect all the other two dozen people to apply for leave to appeal, and there would be the expense of a great number of petitions of course and in due course of law they must not merely have their petitions but they must have their appeals. There will be a petition a case for appeal a case on the other side and a formal hearing and a decision. Whereas, supposing the Government take the reasonable course if this first case goes against them of immediately submitting to any short form of quashing the convictions, a great deal of expense to the country and to the appellants would be saved.

Mr Kenworthy Browne—My submission to your Lordships, as I have said is that the matter should stand over in order to save expense and trouble.

Mr Ameer Ali—I thought you did not want any of the expenses to be incurred on these records.

Lord Shaw of Dunfermline.—Your object, Sir John is to obtain a *locus stands* to come before the King.

Mr Kenworthy Browne.—Sir John Simon has made his position quite clear. May I make my position clear. My suggestion is only for a saving of time, expense and labour.

Sir John Simon—Then I have not made my position clear. My position is nothing to do with that. My position is to draw this distinction. The first step is that I should be within the ear of the Court, and I can only be in that position if they have granted me special leave to appeal. Until then, the Court knows nothing of me. I am asking to be before the Court. There is no expense involved in saying that. If it stopped there, the Order which the Privy Council would make would be wider and would include a direction to prepare the Record. I quite agree with my friend that one ought to take steps that will avoid the expense, I think quite unnecessary of getting together records and printing them.

Lord Shaw of Dunfermline—You would assent to that, Mr. Kenworthy Browne?

Mr. Kenworthy Browne—Certainly

Lord Phillimore.—I am afraid you have misunderstood my point altogether

Sir John Simon—I do not know any method, speaking subject to correction by which when a Subject of the King has been sentenced to a term of imprisonment he can be put in the position of a person who has not been put in prison, except it be by his conviction quashed. We are not content to receive a pardon from the Crown. We do not want a pardon. We want it to be stated that we have never been convicted, and I know of no method by which it can be done except by the Order of the Privy Council. I hope to get that Order.

Lord Phillimore—That means that every one of them will come here. There are three sets of Petitioners here. Everyone else who has been convicted must come here, and not merely get leave to appeal but put in a Petition of Appeal, lodge a case, and get a decision. That seems to be appalling.

Sir John Simon—It would be, but my own impression is that assuming the Government of India's Respondents, already being before the Board, are prepared to co-operate those steps, which I perfectly agree are appalling steps, can be simplified, and shortened to a very great extent. It is presumably entirely within your Lordships' powers to say, as soon as the Bugga Case has been decided, if it has been decided in favour of the Subject, we are going to put all these other cases in which leave has been granted on this same point into the list to-morrow, though none of them will require a case to be signed, or a reply to be made, because, we know the situation, and we are then with the assent of the Government of India going to quash all those convictions. That is all I want, but your Lordships cannot do that, if I am not

Sir John Edge—We could only do that after the Appeals have been admitted. If your Appeal is admitted before us, then on the argument of the first case we can advise the King to quash the other convictions.

Sir John Simon—I want to come in at the door.

Mr. Amur Ali—You want a *locus standi*?

Sir John Simon—Yes. We will not put any expense on the Country.

Lord Phillimore—Am I not right in thinking that you have, according to the ordinary procedure, first to get leave to appeal, then secondly to file a Petition of Appeal to bring your case on—you may never use your leave—and then thirdly, in the ordinary course file your case? I appreciate that we can dispense with Cases, but I do not think we can dispense with a Petition of Appeal as apart from a Petition for leave to Appeal,

Sir John Simon :—I think your Lordship is quite right

Lord Shaw of Dunfermline :—I think that must be so

Lord Phillimore :—And the cases must be signed by the parties, and so on. Then it might mean, if that procedure was to be taken at least a Petition of Appeal must be presented on behalf of each of these Appellants. I should have thought it might be cut much shorter by the Government eventually undertaking to release all these people

Sir John Simon :—How can they do that? Assuming that A. B. has been committed to a gaoler upon the order of an Authority purporting to be a Court the method by which the gaoler opens the door and lets him out is, he can only be let out by one of two methods, either that the Crown in India in the exercise of the prerogative of mercy grants his release.

Sir John Edgar :—You do not ask for that?

Sir John Simon :—No. The other : that a superior Court of Appeal quashes the conviction

Lord Phillimore :—You are speaking with great forgetfulness of what has happened in England. How many people who were hunger strikers have been let out without pardon by simple executive acts?

Sir John Simon :—I thought there was a cat-and-mouse Act which specially provided for it.

Lord Phillimore :—Before that Act it was constantly done

Sir John Simon :—I think if your Lordships look into it, you will find that everyone of those persons in point of form gets a conditional pardon

Lord Shaw of Dunfermline :—We must keep in view the fact, that there are no doubt possibly other cases to come before us but the position to-day is that you ask for leave to appeal as of right, founded upon authority and I think you must assent to what Lord Phillimore says, that it is highly desirable not to allow that leave with expenses to the other side

Sir John Simon :—I entirely agree, my Lord.

Lord Shaw of Dunfermline :—Your expense is your own affair ; but that the Government of India should be put to expense, we should all agree, should be avoided if possible. On the other hand, you must observe Lord Phillimore's point. It is this, Leave is only an allowance to you to come here *in form*. Once you are *in form* you can only arrive into the forum by coming in by your Petition of Appeal, and naturally it will follow that though it may mean a short summary simple affair you would present your Petitions of Appeal.

Sir John Simon —I ask for the assurance which I understand my friend is in a position to give

Mr Kenworthy Browne —I do not know what assurance my friend requires

Sir John Simon —I want to make it quite plain that if I offer, if the Tribunal thinks it right to direct, that after I file my Petition of Appeal I should hold my hand, and that therefore there should be no printing of the records in those cases, in the meantime that the Government of India will co-operate as far as in them lies to bring on this hearing without formal Cases, as soon as the Bugga case is decided, otherwise, I should want to get all the documents ready, which would be most unreasonable

Lord Shaw of Dunfermline —I think the position is quite clear Mr Kenworthy Browne does not differ, and nobody differs, on the merits of this The thing is to do it in the most appropriate way, or the most convenient way What you want to do is to get these Appellants in *pari passu* with the Bugga Case to the extent of being before this Board, but *quoad ultra* no expense could be incurred, and it goes without saying that in the interests of all parties, the trial of that most important case should be hastened

Mr Kenworthy Browne —Certainly my Lord, there will be no delay on the part of the Government Certainly, I can give an undertaking as to that

Sir John Edge —If the result of the first is to decide that there was jurisdiction to try these men and to commit them, would all the Appeals fail?

Sir John Simon —I am not prepared to say that, because I do not know. Lord Haldane on the previous occasion was careful to guard the interests of the Appellants, because he said —We are satisfied that we ought to give special leave to appeal on those points” which he indicated, but he said, “there may be other grounds, there is one, for example, whether an Ordinance of this kind can be retrospective in its true operation, and there may be other points” and he said, “We will leave the Petitioners open to take other points, but the ground upon which we give them leave to Appeal, to come here, is this point”

Sir John Edge —I suppose in those other cases, the facts would not be disputed as to what part the Petitioners took in the proceedings?

Sir John Simon —I do not think so In the present case, I am quite certain they would not

Lord Phillimore —Is there anything in the present case that distinguishes it from the Bugga Case Have you any advantages that Bugga had not?

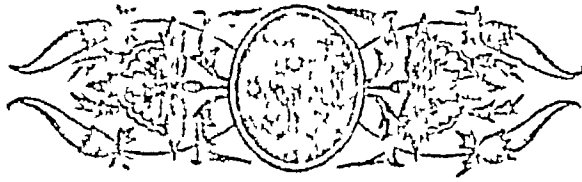
Sir John Simon —The actual charge in the Bugga Case was of taking part in the Amritsar riots In the present case it is not a charge of riot, it is a charge of sedition, and a charge of making war against the King I have not really addressed my mind to the question

Lord Shaw of Dunfermline—It is very desirable not to go into it

Sir John Simon—If your Lordships grant leave to Appeal the form of Order which is issued from the Department here is an order which directs the parties with reasonable promptitude to prepare their record. Sometimes, people do not take advantage of that ; but that does not alter the fact that the direction is given.

(Counsel and parties are ordered to withdraw and after a short time are again called in)

Lord Shaw of Dunfermline—Their Lordships will humbly advise His Majesty that leave to Appeal should be granted in this case. The Order to be pronounced will be the same as that pronounced in what is admitted to be the precedent, the case of *Boggs*. With regard to what follows, their Lordships desire to say almost nothing except to say that should it be ultimately held that *Boggs's Case* covers the present case no unnecessary expense or circuitous procedure should take place in this present Appeal. No doubt *pro forma* a Petition of Appeal will be necessary but the parties will judge whether anything else will be required to enable the precedent of the *Boggs* case to be instantly applied on its merits when these are reached



APPENDIX IV.

Martial Law & its Applicability.

(1)—Applicability of Regulation X of 1804

Towards the end of the year 1817, Martial Law was established at Cuttack and a large number of persons were tried and convicted by Courts Martial constituted under Regulation X of 1804 the trials being in many respects similar to those that were held a century later in the Punjab under the Martial Law Ordinance of 1919. Mr R. Spankie, the Advocate General of Bengal at that time, impeached the legality of those trials on almost the same grounds as are being urged against the Punjab trials. The following is the opinion of Serjeant Spankie on the trials held at Cuttack. —

Rebellion in East Indies

*To W^o B Bayley, Esq., Secretary to Government, Judicial Department,—
From Advocate General Spankie,—relating to native Detachment Courts Martial in
Cuttack, 17th September, 1817 to 4th March 1818*

SIR,—I have the honour to acknowledge the receipt of your letter of the 14th instant transmitting, by direction of the Hon the Vice President in Council, various documents respecting the cases of certain prisoners, tried by Court Martial in Cuttack, and in reply, I have to request that you will lay before the Hon the Vice-President in Council the opinion I have formed upon the subject.

1. It appears by the document referred to that *Martial Law* was put in force under the orders of Government by virtue of Regulation X of 1804

2. The preamble of the Regulation states, “that it may be expedient, in certain cases therein mentioned, that the Governor General in Council should declare and establish Martial Law for the safety of the British Possessions and etc., by the *immediate* punishment of persons owing allegiance to the British Government, who may be *taken* in arms in *open* hostility to the said Government, or in the actual

commission of any overt act of rebellion against the authority of the same, or in the act of *openly* aiding and abetting the enemies of the British Government within any part of the territories above specified."

3 This enacting part conformably to the object developed in the preamble enacts (Sec. 2) That the Governor-General in Council shall be empowered, among other things, to direct the immediate trial by Courts-Martial of all persons owing allegiance and who shall be *taken* in arm in *open* hostility to the British Government or in the act of opposing by force of arms the authority of the same or in the *actual* commission of an *overt* act of rebellion against the State or in the act of *openly* aiding and abetting the enemies of the British Government."

4. Four overt acts are enumerated and it seems to me clear that the word *taken* in the first must in necessary construction, be carried forward and annexed to each member of the sentence containing the description of the overt act; indeed the sentence would not make sense without it.

5 Here the circumstances in which Courts Martial are to have an authority to try are clearly marked and defined. The criminals must be *taken* in open acts of the treasonable and rebellious descriptions mentioned.

6 It seems to me also liable to some doubt whether the fourth overt act specified in the Regulation does not mean an aiding and abetting of such enemies of the British Government as are contemplated both in the preamble and in Sec. 2—enemies, with which the British Government may be engaged in war not rebels with arms in their hands.

7 If there could be any doubt of the extent of the authority and jurisdiction of the Courts-Martial under Regulation V of 1804, it would be removed by the instructions of 11th April 1805 communicated for their guidance to the authorities in Cuttack during the late disturbances. These instructions (paragraph 4) say:—"If any person or persons, charged with any of the overt acts of rebellion specified in Regulation V of 1804, shall be apprehended by any *military* officer when not in the *actual commission* of offences of that description, they are to be delivered over by the military to the civil power."

9. The Courts-Martial in Cuttack do not appear to have considered themselves as at all confined to the cases of prisoners taken *flagrante delicto* or even to traitorous and rebellious acts of the specific quality stated in the Regulation. They seem to have acted as if they had possessed an unqualified jurisdiction over all treasonable and rebellious acts, without limitation of time, place or circumstance. The charge (confirming as in all limited jurisdictions, it ought, to the cases in which the jurisdiction is given) does not state the circumstance of the criminal being *taken* in the fact or that it was in some open act of the treasonable rebellious quality which alone the Court Martial could lawfully try.

10 The first case is "for rebellion against the British Government by being seized with arms in the house."

11. The court find him guilty of a breach of allegiance to the British Government *Sentence*—Four years' imprisonment in the convicts' goal at Cuttack

12 The prisoner is acquitted of *rebellion*—the only part of the charge made a crime under the Regulation

13 The next case—'1st Being seized with arms in his house 2nd Deputing four Suwars to find out whether Atchet, Piddam was off his guard. 3rd Having in possession four orders signed by the chieftain of the rebels addressed to various parts of the Dendmals 4th For preventing the well affected inhabitants from returning to their allegiance to British Government, by threatening them with death 5th. Alarming the inhabitants of the Dendmals which had just returned to a state of tranquillity by creating and circulating false reports of its being the intention of the chieftain of the rebels (Jugbundoo Bryadhun) to attack this post with fourteen pieces of cannon and 4,000 or 5,000 men by which means he prevented the remaining few from returning to their allegiance'

14. Found guilty of the 2nd, 3rd, and 4th charges, acquitted of the 5th, on revision, guilty of the fifth (paragraph 15)

16 The fifth charge, the same as the preceding. No 'open overt' acts, as specified in the Regulation.

17. The next case.—'For having taken up arms and aided and abetted in a rebellion against the State.'

18. Found guilty and sentenced to be hanged

19 Here the court who finds the prisoner guilty, or (in the words of the charge) would have been justified and bound to find him guilty of having taken up arms at any time, or having aided and abetted in any manner, which such court might have construed to be aiding and abetting at any time, without the qualification of the prisoner being taken in the 'actual' commission of any crime or in any 'open' act of the description specified in the Regulation

20. The next case —'For high treason, for aiding and abetting the insurgents in this district, in one or either of following instances —1st For adhering to and accompanying the insurgents in this district 2nd For selling a quantity of salt belonging to Government and defrauding Government of the same 3rd For collecting the money in the neighbourhood from the cultivators for the insurgents and for being in the capacity of a collector on the part of Jugbundoo, at the same time he was seized'

21 Guilty of first charge, acquitted of the second charge, on the third, acquitted of collecting money from the cultivators, but guilty of the rest of the charge *Sentence*—to be hanged.

22 The second charge is a mere fraud. The aiding and abetting which amounted to treason or rebellion were not well defined. Acquitted of collecting money from the cultivators but guilty of being a collector on the part of Jugbandoo at the time he (not distinguishing whether he refers to the prisoner or Jugbandoo) was seized."

23 It is doubtful whether this prisoner was guilty of any offence. He certainly is not charged with being taken in the actual commission of any offence or of the open overt act specified in the Regulation.

24-25. The next case is — 1st. For aiding or joining in a rebellion against the legal authorities of the State between the month of March 1817 and the present period. 2nd. For joining or following the rebel chief Karna kun Parrann Gooroo some time during the above mentioned period.

26 Acquitted of the first; guilty of the second charge. *Sentence*—to be hanged.

— Second prisoner acquitted.

28 Third prisoner charged— For aiding abetting or joining in a rebellion against the legal authorities of the State between the month of March 1817 and the present period.

29 Guilty to be hanged.—(Three other cases the same).

34. No *fact* specified, though the Court may have received evidence of what they consider aiding abetting or joining at any time whatsoever from the 17th March, 1817.

35. The last case.

36. Charge the same.

37. Guilty to be hanged.

38. Same remark as to those immediately preceding.

39. The whole of the proceedings and sentences illegal.

40. The manifest intention of Government in its legislative capacity was, that none but cases of the simplest and most obviously criminal nature should be the subject of trial by the courts martial. The fact, whether a person was *taken* in the actual commission of an overt act of rebellion, or *taken* in the act of *openly* aiding and abetting the enemies of the State or taken in *open* hostility might safely be tried by such courts and such a provision for trial was calculated to prevent *military* severity in the field becoming absolute *massacre*. But all complex cases depending upon circumstantial proof and requiring either a long examination of facts or a discriminating inference from facts in themselves equivocal were purposely withdrawn from the cognizance of these tribunals. It never was intended

that courts martial should try, as those have done acts, even of criminal nature, in which the prisoner was not *taken*, and unless the acts were open overt acts and of the most material palpable quality

41. To guard against a dangerous usurpation of authority, the charge should have stated the prisoner was *taken in the actual commission of some open overt act* of the description specified in the Regulation, for without such limitation, the court martial is let in to try all manner of *traitorous, treasonable, and rebellious* acts direct or indirect. It does not appear that the distinctions required both by the regulations and by the positive instructions of Government have been at all regarded in practice

42. Some of the cases exhibited instances of laxity in the charge, and indeed in the conception of the nature of the crime which sufficiently evince the danger that would ensue if the courts were not to be most strictly limited, both as to the extent of their authority and the defined quality of the offence submitted to them.

43. It is impossible, though I think it is not either morally or legally to be presumed in the present case, that some of the prisoners tried may have been *taken* in the fact, as required by the Regulation. But, on the face of the proceedings, the sentences are wholly *illegal* and I think that no punishment whatever can legally be inflicted upon them. Indeed, they are so utterly void that the prisoners, if they be guilty and if it be thought advisable, might still be prosecuted before the criminal courts of ordinary jurisdiction. The humanity of the Commander in Chief* and the military commissioner† of the district has led them to *commute* all sentences by which death was to be inflicted, so that if the proceedings be irregular, the consequences are not irreparable

44. The proceedings of those courts martial appear to be in some other respects irregular and seem to indicate a misapprehension of their proper functions and jurisdiction

45. The object of Martial Law in the trial of offenders under it, is justly stated in the Regulation X of 1804 to be *immediate punishment* for the "*safety of the British Possessions and for the security of the lives and property of the inhabitants thereof*" It is, in fact, the law of social defence, superseding under the pressure, and therefore under the justification of an extreme necessity, the ordinary forms of justice. Courts Martial under Martial Law, or rather during the suspension of Law, are invested with the power of administering that prompt and speedy justice in cases presumed to be clearly and indisputably of the highest species of guilt. The object is self preservation by the terror and the example of speedy justice, but courts martial which condemn to imprisonment and hard labour belie the necessity, under which alone the jurisdiction of Courts Martial can lawfully exist in civil society

*Marquis of Hastings

†Lieutenant General Sir G. Martindell, K C B.

46. I would not be understood to mean that the superior military authorities may not properly commute the punishment of death in cases in which in the first heat and danger of *rebellion* sentence of death has been given by a court martial. It seems important however that the court martial itself should be confined to cases of the most obvious and dangerous criminality admitting as far as they are concerned but of one sentence. It is essential to preserve the distinction of crimes and the character of the jurisdiction and that the lenity of the tribunal should not become an argument for the unnecessary employment of it.

47. In all the cases above considered there appears no reason why the criminals might not have been sent before the ordinary courts agreeably to the expressed directions and instructions of Government. It seems desirable that the attention of the military authorities should be drawn to the distinctions laid down in Regulation A. and in the instructions of Government as long as the existence of Martial Law is found necessary.

48. The proceedings and sentences of the courts martial are *illegal* and I conceive that as a court of law in reviewing the proceedings of inferior jurisdictions acts aside the *whole* where error and particularly want of jurisdiction manifestly appear the Supreme Government exercising the same functions of review and control must quash the whole of the illegal proceedings and cannot consider them the foundation of any lawful punishment at all.

R. SPANKEE,

Advocate-General.

Fort William. 27th April 1818.

(2).—Martial Law in the Punjab

BY

By SRI P. S. SIVASWAMY Aiyer, K. C. S. I., C. I. E.

(From the *Serjeant of India*, dated the 5th June, 1919)

While the administration of martial law in the Punjab has been widely discussed in the press the legal aspects of the subject have received comparatively little attention from the public. It is neither practicable nor desirable to go into the merits of any individual case, but it is worth while considering the scope and effect of the regulations and ordinances under which action has been taken and the powers of the Crown and the military authorities, apart from any specific enactments.

The regulation under which martial law has been introduced in the Punjab is the Bengal State Offences Regulation 1804 which has been declared to be in force in the Punjab by section 3 of the Punjab Laws Act 1872. Section 2 of this regulation empowers the Governor General in Council to suspend or direct the suspension of, wholly or partially, the functions of the ordinary criminal courts and to establish martial law therein during the existence of any war or open rebellion against the authority of the Government and also to direct the immediate trial by courts-martial of all persons owing allegiance to the British Government, who may be guilty of certain offences. The only offences which can be taken cognizance of are those specified in the second paragraph of section 2. The persons who can be tried by courts-martial under this regulation are subjects of the British Government who shall be *taken*

- 1 in arms in open hostility to the British Government, or
- 2 in the act of opposing by force of arms the authority of the Government, or
- 3 in the actual commission of any overt act of rebellion against the State, or
- 4 in the act of openly aiding and abetting the enemies of the British Government within any part of the territories in question

The punishments provided by section 3 are death and forfeiture of property. Having regard to the severity of the punishments provided and the language of Sections 1 and 2 and the whole scheme of the regulation, there can be no doubt as to the correctness of the opinion of Advocate General Spankie that the manifest intention of the Regulation was, that none but cases of the simplest and most obviously criminal nature should be the subject of trial by the courts-martial that only persons who were *taken* in the actual commission of overt acts of rebellion or hostility should be tried by such courts, and that complex

cases depending upon circumstantial proof and requiring either a long examination of facts or a discriminating inference from facts in themselves equivocal, were purposely withdrawn from the cognizance of the tribunals. Where persons concerned in acts of rebellion were not taken in the actual commission of the offences specified in the Regulation the intention of the legislature evidently was that they should be handed over to the civil power for trial by the ordinary criminal court as will appear from the instructions issued by the Governor General on the 11th April, 1805 (See Harrington *Martial Regulations*, Edn of 1811 p 350.)

The Martial Law Ordinance—1 of 1919 recites that the function of the ordinary criminal courts have been suspended in respect of the offences described in section 2 of the Regulation and provides for trial in respect of such offences being held by commissions of three persons appointed by the local Government instead of by court martial. The object of the substitution was presumably to secure the presence in the tribunal of Judges in the civil employ of the Government. As a consequence of this constitution of the tribunal, the right of the accused to challenge the members of the tribunal has been excluded, and the necessity for confirmation of the finding and sentence as required by sections 94 and 95 of the Army Act has also been provided against. Though this Ordinance came into force at mid night on the 15th April, 1919, it was expressly rendered applicable to all persons referred to in Regulation 10 of 1804, who were charged with any of the offences therein described committed on or after the 13th April, 1919. The question has been raised in some quarters whether the Ordinance is valid in so far as it purport to give retrospective effect. To the mind of a lawyer there can be no doubt as to the validity of an express provision of this sort. Though the inclination of the courts would be against the retrospective operation of penal laws in cases in which the language of the statute admits of reasonable doubt there can be no question as to the validity of an express provision for giving retrospective effect. The only offences which can be taken cognizance of by the commissions under this ordinance are those described in section 2 of the Regulation above referred to. It is not every offence under Chapter VI of the Penal Code that could be brought under this ordinance, section 124 A dealing with sedition, would fall outside the class of offences described in the regulation; so also offences under section 129. Whether offences under section 121 A or 123 of the Penal Code could be taken cognizance of or not under the Martial Law Ordinance would depend upon the circumstances of the case. The Martial Law Ordinance does not authorise the military authorities to enact rules or regulations or to create any new offences in respect of infringement of any rules or orders, which may be issued by them. Whether apart from the provisions of the Martial Law Ordinance the Crown or the military authorities have any power to issue such regulations and how breaches of such regulations may be punished are distinct questions, which will be examined later on. As regards the sentences which may be imposed by a commission constituted under this ordinance they could not pass any sentence except that of capital

punishment, and forfeiture of the property of the person convicted was an automatic and necessary result of the conviction under section 3 of the regulation. To obviate this hardship, the Martial Law (Sentences) Ordinance was issued on the 18th April, 1919, and it enabled the tribunals to pass any sentence of transportation for life or for any period not less than 10 years or of rigorous imprisonment for a term of not less than 7 and not more than 14 years, and it further provided that forfeiture of property should not follow a conviction automatically, but only when so directed by the court or commission. The only other ordinance which it is necessary to notice is the Martial Law (further extension) Ordinance which was passed on the 21st April, 1919. This ordinance gives an extraordinary extension to the scope of the Martial Law Ordinance I of 1919. Whereas by the first Ordinance only persons charged with the offences described in section 2 of the regulation could be tried, the further ordinance provides for the trial of any person charged with any offence committed on or after the 30th March, 1919. It may be anything punishable under the Indian Penal Code or, for the matter of that even under a special or a local law. The offence may be simple trespass, defamation, bigamy or nuisance. It need not involve the safety of the British possessions or the security of the lives and property of the inhabitants.† Of course, it is not at all likely that such cases will be actually tried by the commission, for this extended jurisdiction of the commissions is made dependent upon a general or special order to be issued by the local Government and they are not likely to refer ordinary cases not connected, in their opinion however directly or indirectly, with the recent disturbances. The provision is referred to here merely for the purpose of showing how entirely it is left to the local Government to displace the ordinary criminal courts and introduce the procedure of courts-martial. Under the regulation it is, no doubt, open to the Governor General in-Council to direct any public authority to order suspension of the ordinary criminal courts, wholly or partially, but the extent to which such suspension of the ordinary criminal courts may take place, may be gathered from the general scheme of the regulation. The suspension of the functions of the ordinary criminal courts and the exercise of jurisdiction by courts-martial constituted under the regulation are co-extensive. Inasmuch as the jurisdiction of courts martial under section 2 of the regulation is confined to the four classes of crimes described therein, which are all more or less overt acts of hostility (or rebellion) to the State, the functions of the ordinary criminal courts cannot also be suspended to any greater extent, or except as regards these crimes. Even in respect of the crimes specified, the regulation (section 4) displays a solicitude to avoid the institution of courts martial, except where trial by them appears to be indispensably necessary. In view of the facts that martial law was established in exercise of the powers conferred by section 2 of the regulation, that the procedure of courts martial was also introduced in exercise of the same powers, that the commissions appointed under the Martial Law Ordinance are only a convenient

† For a contrary view as to the interpretation of this Ordinance, see *Appendix III*, Sir John Simon's, argument in the Amritsar National Bank Murder Appeal before the Privy Council.

substitute for the tribunals prescribed by the Indian Army Act of 1911 and that the procedure to be followed by these commissions is the procedure prescribed for courts martial by the Indian Army Act the legality of the extension of the scope of the martial law ordinance to persons other than those referred to in Regulation X of 1804 and other than those subject to the Indian Army Act and to all kinds of offences even those not falling under the Regulation or the Army Act appears extremely doubtful. In passing it may be observed that a sentence of whipping would not be a legal punishment either under Regulation X of 1804 or under the Martial Law (sentences) Ordinance of 1919 or under the Army Act. Though corporal punishment is permitted under the Army Act it is only in respect of persons subject to the Act and under the rank of warrant officer. Any sentence of corporal punishment can only be justified under the ordinary criminal law. It is conceivable that a military officer charged with the duty of suppressing a rebellion may have to resort to corporal punishment but it can only be inflicted as a matter of unavoidable military necessity and not under the show of any legal trial.

It may perhaps be argued that, notwithstanding the fact that Ordinance IV of 1919 was intended to extend the scope of the martial law ordinance, which was brought into existence under the conditions described in Regulation 10 of 1804, it is open to the Governor-General to do anything he may please in the exercise of his powers under Section 72 of the Government of India Act 1915. Under this section the Governor-General may in cases of emergency make and promulgate ordinances for the peace and good government of British India or any part thereof; and any ordinance so made has for the space of not more than six months, the same force of law as an act passed by him in Legislative Council. The power is subject to the same restrictions and disallowance as an act of the Indian Legislative Council. It may be said that the ordinance-making power of the Governor-General is practically unlimited and that it is legally open to him to suspend all courts or to abolish the Evidence Act or to order any and every offender to be tried by courts-martial. There are, however two conditions laid down in the section, that it must be a case of emergency and that the ordinance must be for the peace and good government of the country. Whether in the existing circumstances in the Punjab the ordinary criminal courts should be regarded as unfit for bringing offenders to justice, or whether it is indispensable for the peace and good government of the province that their functions should be suspended and offenders should be tried by the procedure of courts-martial, is a question of fact upon which a divergence of views may be reasonably possible; and it would be a matter for regret if the Government were not guided by the same solicitude for preserving the jurisdiction of the ordinary criminal courts as is apparent in Regulation 10 of 1804. *Prima facie* one would be inclined to think that this unlimited delegation to the local Government of the power to suspend the functions of the ordinary criminal courts in respect of offences outrages the necessities of the case. It seems a reasonable view to take that the power conferred by Section 72 of the Government of India Act represents the prerogative of the Crown, which has

been defined as the residue of discretionary authority, which at any given time is legally left in the hands of the Crown, or, in other words, the Executive Government, and that the exercise of the emergency power under Section 72 should, in practice if not in theory, be guided by the same considerations and limitations as the exercise of the prerogative by the Crown under similar circumstances in England

The circumstances under which Martial Law may be proclaimed in the case of a rebellion, the significance of the proclamation and the validity of measures taken upon such proclamation have been discussed by eminent text writers, and the weight of authority is in favour of the view that, while it is the duty and the prerogative of the Crown to suppress revolts and it is also competent to employ military force so far as may be necessary for the purpose, it is illegal for the Crown to resort to Martial Law for the purpose of punishing offenders. In his *History of the Criminal Law of England*, Mr Justice Stephen sums up the result of his discussion on pages 215 and 216 of Volume I as follows —

- (i) Martial Law is the assumption by officers of the Crown of absolute power exercised by military force for the suppression of an insurrection and the restoration of order and lawful authority
- (ii) The officers of the Crown are justified in any exertion of physical force extending to the destruction of life and property to any extent and in any manner that may be required for the purpose. They are not justified in the use of cruel and excessive means, but are liable civilly or criminally for such excess. They are not justified in inflicting punishment after the resistance is suppressed and after the ordinary courts of justice can be re opened
- (iii) The courts martial by which martial law is administered are not, properly speaking, courts martial or courts at all. They are merely committees formed for the purpose of carrying into execution the discretionary power assumed by the Government

It may be taken as settled law in England that if in the suppression of a rebellion and the effort to restore peace and order, any subjects of the Crown are punished or put to death by a trial under court martial, such punishment may be challenged in the ordinary courts after the restoration of order and can only be justified on the ground of necessity which must be proved as a fact. Necessity is the measure of duration and extent of the force to be employed. The fact that the summary execution of rebels, whose crimes can be punished by the ordinary courts of law, may check the spread of treason does not show that the execution is necessary or legal. (See Appendix, Note X on Martial Law, Dicey's "*Law of the Constitution*," 7th edition, pages 538 to 554) In opposition to the view put forward by Professor Dicey, it is urged by Sir Erle Richards that inasmuch as military operations cannot be conducted in time of war or rebellion without interference with rights of property and person and such interference is according to the authorities not contrary to law, it follows that the interference must include also the right of trial and the infliction of punishment. (See *Law Quarterly*

Review Vol. XVIII page 139) The conclusion deduced from the premises is, by no means, necessary. Sir Erle Richards assumes that if a Commanding Officer has the power of controlling the movements of the civil population, he must also have the power of punishing those who are guilty of a breach of his order. An infringement of the orders of the military authorities may be either an offence or not an offence. If it is not an offence, the civil courts cannot punish and the military authorities also should not interfere by way of punishment. Sir Erle Richards does not sufficiently distinguish between the nature of the coercive measures, which may be taken to prevent a breach or avert its consequences and the measures necessary by way of punishment for a breach. The former class of powers must necessarily vest in the military authorities, but the latter power is not so vested. The necessity for the trial and punishment of civilians by the military authorities may conceivably exist in some cases, as, for instance, where it is impossible for the ordinary civil courts to exercise their functions. But even in such cases, the correct view to take is put forward by Mr. Justice Stephen that the courts-martial are merely committees formed for the purpose of carrying into execution the discretionary power of the Crown. The case of *Wright v. Fitz Gerald*, 27 Stat. Trials, page 765, is opposed to the contention of Sir Erle Richards, who relies chiefly upon the decision of the Privy Council in *Ex parte Marais* (1902) A. C. 109. This decision has been canvassed at length by several critics, and the most acceptable view is that the courts will not and cannot interfere with actual military operations or while war is actually raging, entertain proceedings against military men and others for acts done under the so-called martial law. The judgment of the Privy Council asserts nothing as to the jurisdiction of the courts when peace is restored in respect of acts done during time of war and eminent jurists have held that even in time of war the exercise of jurisdiction by the ordinary courts is rather rendered impossible than superseded. (See Dicey's

Law of the Constitution, 7th edition page 546.) With reference to this case of *Ex parte Marais*, the remarks in note (d) on page 403 of Vol. 6 of Halsbury's

Laws of England are of interest when it is remembered that the judgment of the Privy Council was delivered by Lord Halsbury. Here it is said, "It is doubtful how far sentences of fine and imprisonment passed by courts martial upon civilians would be valid in law after the war or insurrection is over. According to Sir Frederick Pollock, the only point decided by *Ex parte Marais*, was that the absence of visible disorder and the continued sitting of the courts are not conclusive evidence of a state of peace. Sir Frederick Pollock holds the view that the justification of any particular act done in a state of war is ultimately examinable in the ordinary courts, and that a person justifying his act must show not merely that he acted in good faith, but also that there was reasonable and probable cause according to the apparent urgency of the circumstances. (See Law Quarterly Review Vol. XVIII pages 150 to 158) Sir Frederick Pollock's view is criticised at length by Professor Dicey at pages 551 to 554 of note 1 in the Appendix to his Law of the Constitution. The difference between the two eminent jurists consists in this: that the tests proposed by Frederick Pollock would justify acts not dictated by immedi-

none of the Ordinances mentioned above is there any mention of the constitution of Summary Courts such as seem to have been established by the order of Major General Beynon dated the 5th May 1919

Major-General Beynon promulgated an order appointing certain officers to be Summary Courts for the trial of minor offences connected with or arising out of the recent disturbances and committed on or after the 30th March 1919. According to that order such courts could only take cognizance of cases sent for trial by the Police and could not in respect of any offence pass any sentence which was not authorised by the ordinary law for that offence, and could not in respect of any offence pass any sentence which could not be passed by a first class Magistrate. The order further declares that the findings and sentences of such Courts shall not be subject to confirmation by any authority nor shall any appeal or application for revision lie in respect of them. The officer appointed by Major General Beynon were mostly officers of civil employment holding no military rank.

Under Section 53 of the Indian Army Act there are four kinds of Courts Martial, namely (1) General Courts Martial (2) District Courts-Martial (3) Summary General Courts-Martial and (4) Summary Courts-Martial. A General Courts-Martial is to consist of at least seven officers but when so many officers are not available, it would be permissible to have at least five officers to preside over the General Court Martial. A District Court Martial under Sec 58 of the Indian Army Act must consist of not less than three officers. A Summary General Court Martial must also consist of not less than three officers as laid down in Section 68 of the Indian Army Act. The only Court Martial that can be presided over by a single officer is the Summary Court Martial.

Section 64 of the Indian Army Act runs thus —

(1) A Summary Court Martial may be held (a) by the Commanding Officer of any Corps or Detachment of His Majesty's Indian Forces or of any detachment of these forces (b) by the Commanding Officer of any British Corps or detachment to which details subject to this Act are attached. (2) At every Summary Court Martial the officer holding the trial shall alone constitute the Court but the proceedings shall be attended throughout by two other officers who shall not as such, be so affirmed.

It is quite clear therefore that the Summary Courts created by Major General Beynon by his order of the 5th May were no Courts as such either under the Ordinance I II III IV and VI or under the Indian Army Act. If Ordinance V which I have not been able to trace makes any provision for the creation of Summary Courts, Major General Beynon might or might not have been within his powers to create such Courts but in the absence of Ordinance V I am unable to pronounce an opinion thereon. But under the Ordinances I II III IV and VI and the Indian Army Act, I have no doubt that Major General Beynon had no authority to constitute Summary Courts, such as he did.

it is not regulated in writing it is still a case in the country just mentioned.

There shall not be substituted Military Tribunal for the punishment of rebels or rioters after the suppression of disturbances by the Military is quite clear. When peace has become established all wrongdoers must be handed over to the Civil power since it is illegal to resort to Martial Law as a special mode of punishing rebellion. On the other hand whatever powers may be necessary for suppressing the rebellion and restoring order where physical force is required to be used for that purpose even to the destruction of life and property to any extent may be justified by the Military authorities. But it does not imply that wanton and excessive means beyond those absolutely necessary are justified. If such are used the Military are responsible both civil and criminal. If there had been no proclamation of Martial Law and like the case of *James* it is clear also that among the methods employed for suppressing rebellion distinct from punishment after the crime has been put down and the ordinary courts of justice are available is that of holding inquiries and inflicting such punishment as may be necessary to attain the sole object the Military Law has in view viz. the suppression of the disturbances and establishment of the ordinary course of things.

The late Sir James F. James Stephen in the *History of the Criminal Law* Vol. I. 721 p. speaking of the Military Courts held for such a purpose points out that they are not Courts Martial properly speaking, but Committees for deciding on the exercise of the discretionary power of the Military. The officers are not administering a Law but doing acts which must be supposed to be for suppressing the rebellion and the holding of the inquiry is a means of showing that they are acting in good faith, they are not protected if they were performing judicial acts on Courts Martial, properly so called under the Army Act and they remain personally liable if they take any proceedings through such a Court or Committee in excess of what is necessary for suppressing the rebellion. The distinction between such a Court and one held after the restoration of peace is exemplified by the case of *Major Tane* (27 St. Tr. 614) who, having taken part in 1916 in French in assisting aid of rebellion in Ireland, was captured when the French surrendered and therefore after the suppression of the rebellion was accomplished. A Court Martial sentenced him to death, but the Court of King Bench caused him to be released on a *habeas corpus*.

Something more than this is claimed by those writers who assert that the proclamation of Martial Law is the assertion of some prerogative power of the Crown distinct from its Common Law right to call upon all citizens to assist in the use of necessary physical force, in suppressing rebellion. When the realm it is admitted that the Declaration of Rights forbids the setting up of Commission for holding tribunals by Court Martial after the rebellion is suppressed but it is affirmed that except to this extent the prerogative exists both within the realm and in the dominions outside the realm of England, as it did before in the case of war and rebellion. Lord Blackburn in his charge to the grand jury in the case of *R. v. Ezz*

1867 (Finlison's Report, pp. 70, 71), puts this claim on behalf of the Crown thus "That whilst the insurrection existed, pending the insurrection, and for a short time afterwards, the Crown had, and *de facto* exercised, the power to proclaim Martial Law in the sense of using summary proceedings to punish the insurgents, and to check and stop the spread of the rebellion by summary proceedings against the insurgents, so as to adopt a modern phrase, 'to stamp out the rebellion'." Upon this he observed, "Now no doubt the extent to which the Crown had power to do that has never yet been decided. It has never come to be decided what this precise power is." Nothing has occurred since then to settle the law more definitely, and the best opinion seems to be that Martial Law, as it is known in England, is only another name for the Common Law duty incumbent on all citizens to put down rebellion by all possible means.

It is to be noted that the proclamations of Martial Law which have been made in the 18th century, and within the present century, do not proceed upon this asserted prerogative power, and do not assume to set up the "state of seige," but merely justify the use of arms against rebels, and after the suppression of the insurrection Acts of Indemnity have always been passed for the purpose of indemnifying those responsible for carrying out repressive measures, unless they can be shown to have acted maliciously and oppressively in excess of the requirements of the position. In a despatch published in Clode, *Military Forces of the Crown*, Vol. II, p. 511, in respect of an Indemnity Act passed by the Legislature of St. Vincent in 1862, it is said "The first clause declares the proclamation of Martial Law to have been '*lawfully issued*', but this is not the fact, and ought not have been so declared. In proclaiming Martial Law the executive authority in fact declares itself obliged, for the protection of the community, to neglect law, trusting to the legislature to relieve all who, in obedience to the constituted authority, may have acted in defence of the public safety, from the consequences of having acted unlawfully. The proclamation was right and necessary but it was not strictly lawful."

(5) —The Jamaica Rebellion

() The rebellion in Jamaica and the consequent declaration of Martial Law with special reference to the case of George William Gordon a coloured member of the House of Assembly

*(Extracts from A Treatise on Martial Law
By Finlason)*

The Governor could only act upon the representations he received and the first official account was from the Chief of the Police who would answer to the Lord Lieutenant of the county who wrote to the Governor describing a desperate attack upon justice and intimating him of the apprehensions entertained of an attack from the rebels requesting the assistance of Military Force, stating that the Civil Force was quite inadequate. The account showed what evidently was designed and deliberate attack with the intention of resisting justice. Upon receiving this account, the Governor at once demanded Military assistance in aid of the Civil Force for the protection of the magistracy which however so speedy was the progress of the agents of the rebellion was too late to prevent a sanguinary attack upon the magistracy and a small Civil and Military force they had for the protection —(Pages, 115 116)

When, therefore, not only he received intelligence of the dreadful massacre which had occurred but found that the Blacks had been in rebellion and that it was expected that they were preparing to advance in career of plunder and murder he knew that it was a case with which it was impossible for the small Military Force then at his disposal to cope with out declaring Martial Law and accordingly he at once summoned Council with whose concurrence, as they were unanimously of the same opinion it was resolved to declare Martial Law and accordingly next day it was declared under statutory authority —(P 125 126)

On the second day after the outbreak of the rebellion into insurrection Martial Law was declared in the disturbed district by which it was declared that the Military Forces should have all power of exercising the rights of belligerents against such of the inhabitants as the Military might consider opposed to the Government, and to the peaceable and well disposed subjects. —(P 127)

The Commander in Chief having chosen a superior officer to command as Brigadier in the field, gave him general but not special instructions but considering him well formed himself to the state of affairs, left him and the officers under him, to carry on the Military operations according to his own judgment giving them no practical directions as to the mode of carrying out Martial Law beyond general directions to capture rebel and dispose of them summarily according to the desert.

The general principle was laid down by the Commander in Chief, that rebels were to be captured, that if they were guilty and taken red handed under circumstances which made their guilt clear, they were to suffer summary justice, but if this guilt was doubtful, they were to be released, and this was interpreted by the General in active command to mean that all ringleaders or those who were found in arms were to be summarily dealt with, whether or not found actually engaged in conflict or attack—as being in arms not on the side of the Crown, was a clear act of rebellion —(Pages 138 139)

On the third day after the declaration of Martial Law the General in Command of the forces on service sent a despatch to the Commander in Chief and through him to the Governor disclosing that Courts Martial had been held for the trial of prisoners and that a number had been convicted and executed for active participation in the rebellion, and the acts of murder by which it had been commenced prior to the declaration of Martial Law And this course had the assent of the Commander-in-Chief and the Governor-General —(Pages 148 149)

Very soon after the Military operations commenced, the officer in command of a principal detachment informed the Commander in Chief that he was necessarily embarrassed by the large number of prisoners whom he hesitated to execute and of course could not retain, and the substance of the directions he received was that he should execute all whose complicity in the rebellion was clear, inflict minor punishments for mere acts of plunder and release the rest, and the General in actual command approved of a similar proceeding —(Page 150)

Within a week after the rebellion broke out, the Governor, anxious to unite conciliation with terror and prepare the way for a termination of Martial Law, proposed the consideration of an amnesty excepting actual murderers, but his Council were of opinion that it was far too soon to think of it and that it would not be safe to do so until more troops had arrived —(Page 161)

It was at this point in the case that the prisoner, supposed to be the real author of the rebellion, was ordered by the Governor to be arrested out of the district in which Martial Law was declared and to be taken to the district with a view to his trial there — (Page 175)

The Governor in a despatch which he wrote immediately afterwards to the Secretary of State, set forth grounds and reasons on which he had ordered the arrest and avowed his responsibility for it—that is for the act of arrest and the removal of the prisoner in custody into the proclaimed district upon the charge of - having caused or incited to the rebellion there —(Page 176)

† —Despatch of Governor Eyre, dated 20th October —There was one very important point to be decided upon Throughout my tour I found everywhere the most unmistakable evidence that Mr George William Gordon, a Coloured Member of the House of Assembly had not only been mixed up in the matter but was himself through his own misrepresentations and scurrilous language addressed to the ignorant black people the chief cause and origin of the whole rebellion Mr Gordon was now in Kingston and it became necessary to decide

The question whether there was evidence on which any charge could be framed which would be cognizable under Martial Law was deemed to be one purely Military and resting with the Military Commanders to determine. The General in command considered the evidence with a view to determine it and convened the Court and controlled the proceedings.

So it was the Military Commander who framed the charges on which the prisoner was tried, the twofold charge of treason and sedition and the charge of complicity with the rebels or in other words conspiring with them to incite the blacks to rebellion. The first was in substance a charge of actually engaging in or raising the rebellion—the other charge of conspiring with the ringleaders, both charges equally capital under Martial Law.

The charges against the prisoners therefore were in substance rebellion, and conspiracy to incite to rebellion that is, rebellion generally not necessarily the particular insurrection. Nor would it necessarily involve an actual intent to raise such an insurrection as had burst forth —(Page, 190-191)

The result of the Court Martial was that Gordon was found guilty and sentenced to be hanged.

The Commander-in-Chief having received the report of the proceedings, sent it to the Governor without any disapproval.

The Secretary of State on receipt of the Governor's despatch reporting the breaking out of the rebellion and acquainting him with the measures which had been taken to suppress the insurrection and prevent its spreading wrote a despatch conveying general approval of the measures thus taken, but reserving a more particular expression of opinion and pointing out that passages in the Military reports required explanation. The same despatch however contained passages which while recognizing the humanity and propriety on the score of humanity not less than policy of measures of severity for the suppression of the rebellion, indicated a desire for explanation of certain general statements in the despatches, and which were supposed to indicate that those measures had been carried

what action should be taken with regard to him. Having obtained a deposition on oath that certain seditious printed notices had been sent through the Post Office, directed in his handwriting to the parties who had been leaders in the rebellion, I at once called upon the *Curias* to issue a warrant and capture him. For sometime he managed to evade capture but finding that sooner or later it was inevitable, he proceeded to the house of General O'Connor and there gave himself up. I at once had him placed on board the *Wolverine* for safe custody and conveyance to Morant Bay. Great difference of opinion prevailed in Kingston as to the policy of taking Mr Gordon. Nearly all concurred in believing him to be the occasion of the rebellion and that he ought to be taken; but many of the inhabitants were under considerable apprehension that his capture might lead to an immediate outbreak in Kingston itself. I did not share in this feeling. Moreover considering it right in the abstract and desirable as a matter of policy that whilst the poor black men who had been misled were undergoing condign punishment the chief instigator of all the evil should not go unpunished I at once took upon myself the responsibility of the capture —(176).

—His Excellency returned the documents with this letter:—
King's House October 22 1866—Sir—I have the honour to acknowledge

further than necessary, and for satisfactory evidence that this had not been so — (Pages 232 233)

At the same time in a separate despatch the Secretary of State desired to be furnished with the evidence in the case of the person who had been executed as the author of the rebellion and to be informed whether the Governor's approval of the execution "rested on evidence of the prisoner's participation in the insurrection itself or the lesser offence of seditious language, *calculated but not intended* to produce rebellion," and he also desired explanation of Gordon's removal from a district not under Martial Law into the proclaimed district for trial under Martial Law — (Pages 236 237)

The official despatch from the Commander in Chief to the Secretary of State for War contained a serious charge against the Governor of having "crowded the camps with political prisoners and rebels, captured in districts not under Martial Law and whom the Governor desired to have tried by Martial Law," that is, as the Commander in Chief represented, illegally. Upon these official representations, the Secretary of State addressed to the Governor another despatch enclosing them and containing more specific and categorical demands for information as to the number of persons killed, either in the field or by sentence of Court Martial and under what circumstances in each class of cases — (Pages 243 244)

On this a Royal Commission of Enquiry was appointed

The Commission was in short a species of Court of Enquiry, a kind of investigation which, for upwards of a century, the Crown has been accustomed to institute, not with any judicial character, but for the *purpose of informing its own conscience* as to the conduct of its officers in public and military capacities, in cases where it does not appear that there are sufficient grounds for Courts Martial or for any criminal proceeding — (Page 257)

The object and scope of the enquiry were clearly and concisely indicated by the Secretary of State in his letter to the Head Commissioner on the occasion of his appointment and were declared distinctly to be to "enquire into the origin, nature and circumstances of the recent disturbance and into the measures taken in the course of their repression" the basis of the enquiry being also stated to be the

receipt of your communication dated today, transmitting for my information copy of a despatch received at noon this day from Brigadier General Nelson with proceedings of a Court Martial on G. W. Gordon and other documents which you requested me after perusal, to return to you with as little delay as possible. I have duly read the papers referred to and I fully concur in the justice of the sentence and the policy of carrying it into effect. There can be little doubt I think whatever Mr. Gordon's intention may have been, it is entirely due to his agitation, bad advice and seditious language amongst the peasantry of this colony, that the rebellion broke out and the massacre of so many gentlemen and the destruction of so much property ensued. It will be remembered by Your Excellency that Colonel commanding another force in the field has reported ample and sufficient evidence to justify the execution of Mr. Gordon.

despatch already alluded to the Governor containing the demand for information required by Her Majesty's Government. —(Pages 259-260)

There was abundant evidence that there was diffused among the negro population deep rooted impressions and ideas as to emancipation especially as to its involving their right to the better or waste lands, without payment of rent and there was also ample evidence to connect it with the present rebellion.

That the real origin of the disturbances was agrarian discontent and the desire among the peasant for the acquisition of land and a nation which had been imposed on them that mancipulation of the title to the lands, was proved by the anti-slavery tract the language of the ring-leader and in the opinion of the most intelligent persons who saw the whole of the evidence it was the impression created. —(Page 272)

There was abundant evidence that there had been a system of agitation calculated to incite the blacks to rise in rebellion and every possible effort used to make them believe themselves oppressed and to excite the feelings of animosity to the utmost against the white race. And that the leaders perfectly well knew that the course they were taking must lead to anarchy and rebellion and were warned of it and persisted. —(Page 24 275)

Evidence was likewise given that the character of the black population was such for ignorance and credulity and credulity that agitation and disaffection were calculated to work from the least mischievous and cause for more imminent peril than might result from mere abolition and that in the opinion of those who were best acquainted with them from long residence on the island in such a state of disaffection a spark would be sufficient to cause a flame of insurrection through the island even without any premeditation or actual combination. —(Page 277)

There was positive evidence which confirmed a great deal of circumstantial evidence that the attack on the Police in the district had been deliberately arranged by the leaders of the rebellion and thus only a week before the outbreak and that all that followed was in consequence of these deliberate arrangements. —(Page 280)

This latter evidence too is quite unconnected with that adduced before the Court Martial and has not been under consideration at all—I believe that, were condign punishment inflicted only on the ignorant people who have been misled into rebellion and the educated and man who led to that rebellion to escape, a very unfortunate impression would be produced upon the public mind which in the present state of the colony might lead to very serious results. It is only by making it plain to the entire population that the guilty agitator and user of sedition language will meet the same punishment as the uneducated fools whom he misled that we can hope to check and put down the spirit of disloyalty and of Treason already so rife in the land and which may at any moment occasion other proceedings of a similar nature to those which have recently occurred in St. Thomas the last. I received from Mr. L. Kennedy's letter at 4.30 p.m. and I put in the documents contained in it without delay as requested I have &c E. I re —(Pages 198 199)

That the massacre, which was the outbreak of the rebellion, was deliberate and designed, was proved not only by the words and acts of the open and acting leaders, but by the knowledge of others—the more secret leaders at a distance—as to what was about to occur and warning given to intended victims

It was proved that many of the prisoners, executed under martial law, declared with their dying breath, that the two men executed as the secret and active leaders of the rebellion had brought them to that end, which was naturally enough regarded at the time as sufficient ground for suspicion —(Pages 282 283)

Evidence was given as to the circumstances of the disturbances, and the circumstances under which martial law was declared. For the first ten days after the outbreak of the rebellion, the utmost alarm and consternation prevailed through the eastern and central parts of the island, especially the eastern, where the insurrection had broken out, the whites were driven in numbers, from their residences, forced to seek safety in flight, and it was not until after the lapse of a fortnight, and after energetic military measures, that anything like confidence began to be restored —(Pages 289 290)

Evidence was also taken as to the local extent of martial law, or the district as to which it was declared and applied and it appeared that the Commander-in-Chief was always of opinion that the entire island should be declared, but that the Governor was of opinion that it should be confined to the district in which the actual outbreak of rebellion had taken place, and that, on grounds of public convenience, the principal city should be excepted

Reasons of policy and public convenience having prevented the Governor from putting that city under martial law, the Governor avowed that he had taken upon himself the responsibility of directing the arrest of several persons there, for supposed complicity in the rebellion, and he stated the grounds and reasons upon which he took those measures, which were the only, or the principal active operative measures, he took personally, upon his own responsibility.—(Pages 298—300)

The military officers, it appeared, endeavoured to the utmost in carrying out martial law, to apply it only to *hostility*, and to distinguish between that and mere felony, not connected with, or necessarily involving, hostility or rebellion. But, on the other hand, in a warfare against rebels, who waged *their* warfare against the loyal subjects of the Crown, not in an honorable and regular way, but by felonious acts of arson and devastation,—they did not consider that the only evidence of hostility was the use of arms

It must be clearly kept in mind that, at common law, the military could not lawfully kill or inflict sentence of death, even in cases of men, not only found in arms, but even in cases of those found in the *act* of felonious outrage, unless the infliction of death was *necessary* to *prevent* the act of outrage, or to prevent the escape of the felon, or unless it occurred in the encounter with a felonious or rebel

lous body. And therefore, martial law would be required to authorise even the execution of those found in arms or with arms in their hands, or even taken in the act of arson or murder. On the other hand in the view of the military authorities, the severities of martial law were not restricted to such cases, although by military usage the power of instant execution without enquiry might be so restricted.

The officers stated moreover as they had in their reports, the circumstances of embarrassment under which they soon found themselves placed by the accumulation of prisoners, and the difficulty or rather practical impossibility of guarding them, and the consequent necessity of dealing summarily with them in some way upon summary enquiry which is one of the primary and main difficulties to be met with by martial law when the number of prisoners is far too great to be dealt with in the ordinary way and they can only from the nature of the case, be dealt with summarily — (Pages 347—349).

The Commissioners entered particularly into the case of Gordon the person who had been, by order of the Governor arrested in the place excepted out of the declared district, and sent into it, with a view to his trial, if there should in the opinion of the General in-Command, be sufficient evidence to warrant it. For that arrest and removal no doubt, he was responsible, and they conducted his examination, evidently with a view to the propriety of the measure, and not merely with reference to its legality as to which, indeed, many of the topics they entered into would be irrelevant. — (Pages 392—393).

As regarded the arrest and removal of the prisoner for which alone the Governor was responsible, evidence was entered into as to whether the facts justified him morally as well as legally; and as to this, persons in the highest position and of the best means of information, firmly believed the prisoner to be the author of the rebellion; and on the other hand, there was sworn evidence of an act of seditious incitement in the declared district, for which he was liable to be tried there, and nowhere else. — (Page 395).

The only grounds on which the fairness of the trial was attempted to be impeached was the omission of the court to adjourn, in order to allow the prisoner the opportunity of trying to produce some witness to prove something to explain matters entirely collateral, and indeed, comparatively immaterial, on which he had produced a witness who did not support his statement, and upon this, it appeared, that he did not himself ask for adjournment.

This could hardly affect the substantial question, which was, whether he had a fair trial. The Commissioners entered, it is true, also into other matters, and into the non-observance of the legal rules of evidence as to the reception of depositions of absent witnesses, or of oral evidence of the contents of written documents, and the like; but this, it is to be presumed, was not upon the view that these rules are obligatory upon drumhead courts martial, under martial

law, but with a view to ascertain how far their non observance was wilful and intentional, or had operated, in the particular case, substantial injustice (Pages 404 405)

The Commissioners took great care to enquire whether any substantial injustice or injury had been done to the prisoner by the receiving these depositions, and with this view they had before them the witnesses whose depositions had been received, and examined them, and allowed them to be cross examined, and, beyond all doubt, they adhered to their depositions, and were not shaken in the least —(Page 407).

It is to be observed here, that the great object of martial law being to admit of more prompt and speedy deterrent measures than can be attained at common law, it would make it of no avail, if those strict rules of evidence were to be observed, the effect of which must necessarily be to interpose great delay, while the legal evidence is being obtained. Thus, to procure the attendance of witnesses at a distance, would cause a delay of several days, and the very necessity for martial law, a present emergency, would render such delay inadmissible. It would have necessitated a postponement of the trial.

The great question, both moral and legal, was, whether the prisoner had had a fair trial, and this, it was clear, he had

That is, he heard the evidence given against him, anything he had to say upon it, either in the way of cross examination or observation, was listened to, he was heard patiently in his own defence, and any witness he had he was allowed to examine in his defence—(Page 408 409)

Before stating the report of the Royal Commissioners, so far as it bore on the subject of martial law, it may be well to recur to its terms and its recitals. The Commission recited —“That it is alleged that great dissatisfaction prevailed in the island, and that evil disposed persons had concerted the destruction of other subjects therein. That grievous disturbances had broken out in the island and had been suppressed, and that the said disturbances and suppression had been attended with great loss of life, and, it is alleged, that excessive and unlawful severity had been used in such suppression. And that it greatly concerns us that full and impartial enquiry should be made into the origin, nature, and circumstances of the said disturbances, and with respect to the measures adopted for the suppression of the same, and the conduct of those engaged in such suppression.”

The Commissioners, after sitting in Jamaica for many weeks, and taking the evidence of hundreds of witnesses, agreed to a Report, which, while entering into many particular cases, and details, not necessary to enter into here, contained much general matter, very valuable for future guidance, especially as it was adopted by the Crown —(Pages 418 and 419)

(b)—Case and Joint Opinion of Mr Edward James, Q C.
and Mr Fitzjames Stephen Q C on *Martial Law*,
with reference to the *Jamaica Insurrection, 1866*
(From *Cases and Opinions on Constitutional Law* by William
Forsyth—Appendix, Pages 551—553.)

Case submitted by the Jamaica Committee—The Committee desires to be advised what steps are open to them to assist their fellow subjects in Jamaica to obtain the protection of the law; and if the law has been broken, to bring the guilty parties to justice and also what steps are open to them, as Englishmen, to vindicate constitutional law and order if constitutional law and order have been illegally set aside by the local Government in Jamaica.

With this are sent copies of the despatch from Governor Eyre to Mr Secretary Cardwell on the 20th of October 1865 and also of the Address of the Governor to the Jamaica House of Legislature, at the annual meeting which took place on the 7th of November. Copies are also sent of such reports of the military officers as have appeared in the papers.

Considering for the present nothing but these official documents, and taking for granted that the statements they contain are all true, counsel is requested to advise

1. What is the meaning of the term martial law and what is the legal effect of a proclamation of martial law?

2. Are there grounds for concluding that Governor Eyre has acted illegally and criminally in the mode in which he states that he has proclaimed and enforced martial law and especially in removing the Hon G W Gordon from Kingston to Morant Bay and there handing him over to Brigadier General Nelson, to be tried by court martial?

3. Could Mr Gordon be legally convicted and punished by court martial for any act done prior to the proclamation of martial law or for any act done beyond the boundaries of the proclaimed district?

4. Are officers acting in enforcing martial law exempt from all control beyond the instructions they receive from their superior officers? If not, are there any principles acknowledged by martial law or by the British Constitution, which would render it illegal—(a) to continue for several days shooting, down men, and flogging men women and children and burning their habitations, in the absence of the appearance of organized resistance (b) to inflict punishment without or before trial; (c) to inflict punishment for the purpose of obtaining evidence; (d) to inflict death for or on the evidence of looks or gestures?

5. In case Governor Eyre or his subordinate officers have been guilty of illegal acts in the course of the late proceedings in Jamaica, what are the proper modes of bringing them to trial for such illegal acts?

6. Are any and (if any) what, proceedings for the above purpose open to private persons in this country?

7. The last question has reference to a bill of indemnity, if one should be passed by the French Legislature.

QUESTIONS—The question asked in the last is all dependent more or less upon the general question, "What is the nature of martial law, and what power does it confer?" We will, therefore, state our view of this subject before answering the specific questions asked, and we must do so at some length on account both of the importance and the obscurity of the subject. The expression "martial law" has been used at different times in four different senses, each of which must be carefully distinguished from the other—

1. In very early times various systems of law co-existed in this country—as the common law, the ecclesiastical law, the law of the Court of Admiralty, &c. One of these was the law martial exercised by the constable and marshal over troops in actual service and especially over foreign service. As to this see an essay on the "Laws of War," by Prof. A. Montague Perroud, in the "Oxford Essays" for 1856.

2. The existence of this system in cases of foreign service or actual warfare, appears to have led to attempts on the part of various sovereigns to introduce the same system in times of peace or emergencies, and especially for the punishment of breaches of the peace. This was declared to be illegal by the Petition of Right, as we shall show more fully immediately. (See Hallam's "Constitutional History," vol. i., p. 245, 7th edition, ch. v., near the beginning.)

3. When standing armies were introduced, the powers of the constable and marshal fell into disuse, and the discipline of the army was provided for by annual Mutiny Acts, which provide express regulations for the purpose. These regulations form a code, which is sometimes called martial, but more properly military law, (Grant and Gould 2 II. Blackstone, 69.)

4. Although martial law in sense (1) is obsolete, being superseded by military law, and in sense (2) is declared by the Petition of Right to be illegal, the expression has survived, and has been applied (as we think, inaccurately and improperly) to a very different thing—namely, to the common law right of the Crown and its representatives to repel force by force in the case of invasion or insurrection. We shall proceed to develop and illustrate this view of the subject.

The provisions of the Petition of Right on Martial Law (3 Car. 1, c. 1), are contained in ss. 7, 8, 9, 10. These sections recite that commissions under the Great Seal had lately been issued to certain persons to proceed in particular cases "according to the justice of martial law," and that thereby persons had been put to death who, if deserving of death, ought to have been tried in the ordinary way, whilst others, pleading privilege, had escaped. Such commissions are then declared to be illegal, and it is provided that henceforth no commissions of like nature may issue forth to any person or persons whatsoever.

The commissions themselves explain the nature of the system which the Petition of Right prohibited. Three which were issued shortly before it passed are given in *Rymer's Foedera*" (pp 43 246 647) They are dated respectively 24th November 1617; 20th July 1620; 30th December 1624. The first is a commission to certain persons for the government of Wales, and the counties of Worcester Hereford and Shropshire. It directs them to call out the array of the county and then proceeds to direct them to lead the array—

As well against all and singular our enemies, as also against all and singular rebels, traytors, and other offenders and their adherents, against us our Crowne and dignitie, within the said principalltie and dominions of North Wales and South Wales, the marches of th same and counties and places aforesaid and with the said traytors and rebels from tyme to tyme to fight, and them to invade, resist suppress subdue, slay kill and put to execution of death, by all ways and means, from tyme to tyme by your discretion

And further to doe, execute and use against the said enemies, traytors, rebels and such other like offenders and their adherents afore mentioned, from tyme to tyme as necessitie shall require by your discretion the law called the martiall lawe according to the law martiall and of such offenders apprehended or being brought in subjection to sa e whom you shall think good to be saved and to slay destroye and put to execution of death such and as many of them as you shall think meete by your good discretion to be put to death.

The second empowers Sir Robert Maunsel to govern the crews of certain ships intended for the suppression of piracy and gives him full powers to execute and take away their life, or any member in form and order of martial law "

The third is a commission to the Mayor of Dover and others reciting that certain troops, then at Dover were licentious, and empowering them—

To proceed according to the justice of martial law against such soldiers with any of our lists aforesaid and other dissolute persons joining with them or any of them, as during such tyme as any of our said troops or companies of soldiers shall remain or abide there, and not be transported thence shall, within any of the places or precincts aforesaid, t any tyme after the publication of this our commission, commit any robberies, felonies, mutinies or other outrages or misdemeanors, which by the martial law should or ought to be punished with death, and by such summary course and order as is agreeable to martial law and as is used in armies in time of war to proceed to the trial and condemnation of such delinquents and offenders, and them cause to be executed and put to death according to the law martial, for an example of terror to others, and to keep the rest in due awe and obedience "

The distinctive feature of all these commissions is, that they authorise not merely the suppression of revolts by military force which is undoubtedly legal, but the subsequent punishment of offenders by illegal tribunals, which is the practice forbidden by the Petition of Right. In illustration of this we may compare the

proceedings described in Governor Eyre's despatch with the course taken by a Lieutenant-general and his Provost-marshal in the reign of Queen Elizabeth, under one of the commissions declared to be illegal by the Petition of Right. In 1569 the Earls of Northumberland and Westmoreland had risen and besieged and taken Barnard Castle, and committed other acts of open treasonable warfare. The rising took place, and was suppressed, in the course of the month of December. The Earl of Sussex received from the Queen a commission, evidently similar to the one already cited, and appointed Sir George Bower his Provost marshal. Sir George Bower made a circuit through Durham and Yorkshire, between the 2nd and the 20th of January, 1569, and executed at various places 600 persons. (Sharpe's "Memorials of the Rebellion," No. 1569, pp. 99, 113, 121, 133, 140, 143, 153, 163.)

It appears from Governor Eyre's despatch, passing by earlier portions, which contain instances of acts done by the so called courts martial, susceptible perhaps of a construction different from those which follow, that at daybreak on Monday, the 16th of October (paragraph 41), the last definite act of violence mentioned having taken place on the 15th (*see* paragraph 33), a court martial sat to try prisoners, and twenty-seven were found guilty and hung. By the 18th (paragraph 55), many rebels had been captured, and several courts-martial had been held and capital punishment inflicted. On the 19th (paragraph 57), all was going on well in camp, more rebels had been captured or shot. Afterwards, on the 23rd of October, Mr Gordon was hung. As Governor Eyre mentioned no acts of violence subsequent to that above referred to, it would appear that these executions were punishments for past offences, and not acts required for the suppression of open insurrection. The measures adopted thus resemble those taken by Sir George Bower, in 1569, under the authority of the commission declared illegal by the Petition of Right. As to the legal character of such punishments, Lord Coke observes (3rd Inst., c. 7, p. 52) "If a lieutenant, or other that hath commission of martial authority in time of peace, hang, or otherwise execute any man by colour of martial law, this is murder, for this is against Magna Charta, c. 29" (*See too Hale, Hist. C. L. 34*.)

These authorities appear to show that it is illegal for the Crown to resort to martial law as a special mode of punishing rebellion.

We now proceed to consider the authorities which look in the other direction. In 1799, an Act of the Irish Parliament (39 Geo. 3, c. 11) was passed, the effect of which was to put the parts of the country which were still in rebellion under military command, according to a system therein described. The preamble states that the rebellion had been already suppressed, and it sets forth that on the 24th of May, 1798, Lord Camden did, by and under the advice of the Privy Council, issue his orders to all general officers commanding his Majesty's forces, to punish all persons acting, ordering or in any way assisting in the said rebellion, according to martial law, either by death or otherwise, as to them should seem expedient, and did by his proclamation of the same date ratify the same. It further

goes on to recite that "by the wise and salutary exercise of his Majesty's undoubted prerogative in executing martial law for defeating and dispersing such armed and rebellious force and in bringing divers rebels and traitors to punishment in the most speedy and summary manner the peace of the kingdom has been so far restored as to permit the course of the common law partially to take place" &c. And in the body of the Act (section 6) there is contained a proviso that nothing in this Act shall be construed to abridge or diminish the undoubted prerogative of his Majesty for the public safety to resort to the exercise of martial law against open enemies or traitors.

It is impossible to suppose that such a declaration as this should operate as a repeal of the Petition of Right as regarded Ireland though the language of the two Acts appears to be conflicting. As, however it merely declares an undoubted prerogative of the Crown, it cannot refer to what the Petition of Right expressly denied to exist, and therefore it must probably be construed to mean only that the Crown has an undoubted prerogative to attack an army of rebels by regular forces under military law conducting themselves as armies in the field usually do. This construction is strengthened by the fact that traitors are coupled with open enemies. Now the force used against an invading army is used for the purpose not of punishment, but of conquest, and thus the words in the Irish Act would mean only that the Crown has an undoubted prerogative to carry on war against an army of rebels as it would against an invading army and to inflict upon them such punishment as might be necessary to suppress the rebellion and to restore the peace, and to permit the common law to take effect.

As soon however as the actual conflict was at an end, it would be the duty of the military authorities to hand over their prisoners to the civil powers. This was affirmed by the case of Wolfe Tone, who having been captured when the French surrendered was sent up to Dublin Barracks, tried by a court martial and sentenced to death. The Court of King's Bench immediately granted a *habeas corpus* and directed the sheriff to take into custody the Provost marshal and officers in charge, and to see that Mr. Tone, was not executed (27 St. Tr. 624-5). No doubt many Military executions took place during the Irish rebellion, but an Act of Indemnity was passed in respect to them and it must also be remembered that by the laws of war (which are a branch of morals rather than of law proper and prevail not over soldiers, but as between contending armies) many severities may be justified, such as the refusal of quarter and the putting to death of soldiers who surrender at discretion; and thus, in a war like that in 1798 much might be done which might pass under the name of martial law but which in reality would be no more than incidents of ordinary warfare conducted with an usual rigour.

Another argument is drawn from the annual Mutiny Acts. They contain a declaration that no man can be forejudged of life or limb or subjected to any punishment within this realm by martial law in time of peace. This has been

construed to imply that in times of war or disturbance martial law is legal. As to this, however, it must be remembered that in its original meaning, the phrase "martial law" included what we now understand by military law, and that one principal object of the commissions declared to be illegal by the Petition of Right, was the creation of military tribunals without Parliamentary authority. Hence the words "in peace," which were not in the first Mutiny Act, probably mean that standing armies and military courts were, in time of peace, illegal, except in so far as they were expressly authorised by Parliament.

The whole doctrine of martial law was discussed at great length before a committee of the House of Commons, which sat in the year 1849, to inquire into certain transactions which had taken place at Ceylon. Sir David Dundas, then Judge Advocate General, explained his view upon the subject at length, and was closely examined upon it by Sir Robert Peel, Mr Gladstone, and others. The following answers, amongst others, throw much light on the subject —

"5437 The proclamation of martial law is a notice, to all those to whom the proclamation is addressed, that there is now another measure of law and another mode of proceeding than there was before that proclamation."

"5459 If a Governor fairly and truly believes that the civil and military power which is with him, and such assistance as he might derive from the sound-hearted part of the Queen's subjects, is not enough to save the life of the community, and to suppress the disorder, it is his duty to suppress by this (*i. e.*, by martial law) or any other means

"5476 (Sir Robert Peel) A wise and courageous man, responsible for the safety of a colony, would take the law into his own hands, and make a law for the occasion rather than submit to anarchy?—A I think that a wise and courageous man would, if necessary, make a law to his own hands, but he would much rather take a law which is already made, and I believe the law of England is, that a Governor, like the Crown, has vested in him the right, where the necessity arises, of judging of it, and being responsible for his work afterwards, so to deal with the laws as to supersede them all, and to proclaim martial law for the safety of the colony

"5477 (In answer to Mr Gladstone) I say he is responsible, just as I am responsible for shooting a man on the King's highway who comes to rob me. If I mistake my man, and have not, in the opinion of the judge and jury who try me, an answer to give, I am responsible

"5506 My notion is, that martial law is a rule of necessity, and that when it is executed by men empowered to do so, and they act honestly, rigorously, and vigorously, and with as much humanity as the case will permit, in discharge of their duty, they have done that which every good citizen is bound to do."

Martial law has, accordingly been proclaimed in several colonies—viz at the Cape of Good Hope, in Ceylon, in Jamaica, and in Demerara

The views thus expressed by Sir David Dundas appear to us to be substantially correct. According to them the words "martial law" as used in the expression "proclaiming martial law" might be defined as the assumption for a certain time, by the officers of the Crown, of absolute power exercised by military force, for the purpose of suppressing an insurrection or resisting an invasion. The proclamation of martial law in this sense, would be only a notice to all whom it might concern that such a course was about to be taken. We do not think it is possible to distinguish martial law thus described and explained, from the common law duty which is incumbent on every man, and especially on every magistrate, to use any degree of physical force that may be required for the suppression of a violent insurrection, and which is incumbent as well on soldiers as on civilians, the soldiers retaining during such service their special military obligations. (On this subject see Lord Chief Justice Tindal's Charge to the Grand Jury of Bristol, in 1832, quoted in 1 Rob. on Cr 386 n.) Thus, for instance, we apprehend that if martial law had been proclaimed in London in 1780, such a proclamation would have made no difference whatever in the duties of the troops or the liabilities of the rioters. Without any such proclamation the troops were entitled, and bound, to destroy life and property to any extent which might be necessary to restore order. It is difficult to see what further authority they could have had, except that of punishing the offenders afterwards, and this is expressly forbidden by the Petition of Right.

We may sum up our view of martial law in general in the following propositions:—

1. Martial law is the assumption by the officers of the Crown of absolute power exercised by military force for the suppression of an insurrection, and the restoration of order and lawful authority

2. The officers of the Crown are justified in any exertion of physical force, extending to the destruction of life and property to any extent, and in any manner that may be required for this purpose. They are not justified in the use of excessive or cruel means, but are liable civilly or criminally for such excess. They are not justified in inflicting punishment after resistance is suppressed and after the ordinary courts of justice can be reopened. The principle by which their responsibility is measured is well expressed in the case of *Wright v Fitzgerald*, 27 St. Tr. p. 65. Moles. Wright was a French master of Clonmel, who, after the suppression of the Irish rebellion in 1798, brought an action against Mr Fitzgerald the sheriff of Tipperary for having cruelly flogged him without due inquiry. Martial law was in full force at that time, and an Act of Indemnity had been passed to excuse all breaches of the law committed in the suppression of the rebellion. In summing up, Justice Chamberlain, with whom Lord Alverton agreed said—

"The jury were not to imagine that the Legislature, by enabling magistrates to justify under the Indemnity Bill, had released them from the feelings of humanity, or permitted them wantonly to exercise power, even though it were to put down rebellion. They expected that in all cases there should be a grave and serious examination into the conduct of the supposed criminal, and every act should show a mind intent to discover guilt, not to inflict torture. By examination or trial he did not mean that sort of examination and trial which they were now engaged in, but such examination and trial—the best the nature of the case and existing circumstances should allow of. That this must have been the intention of the Legislature was manifest from the expression 'magistrates and all other persons,' which provide that as every man, whether magistrate or not, was authorized to suppress rebellion, and was to be justified by that law for his acts, it is required that he should not exceed the necessity which gave him that power, and that he should show in his justification that he had used every possible means to ascertain the guilt which he had punished, and, above all, no deviation from the common principles of humanity should appear in his conduct."

Mons Wright recovered £500 damages, and when Mr Fitzgerald applied to the Irish Parliament for an indemnity, he could not get one.

3 The courts martial, as they are called, by which martial law in this sense of the word is administered, are not, properly speaking, courts martial or courts at all. They are mere committees formed for the purpose of carrying into execution the discretionary power assumed by the Government. On the one hand, they are not obliged to proceed in the manner pointed out by the Mutiny Act and Articles of War. On the other hand, if they do so proceed, they are not protected by them as the members of a real court martial might be, except in so far as such proceedings are evidence of good faith. They are justified in doing, with any forms and in any manner, whatever is necessary to suppress insurrection, and to restore peace and the authority of the law. They are personally liable for any acts which they may commit in excess of that power, even if they act in strict accordance with the Mutiny Act and Articles of War.

Such, in general, we take to be the nature of martial law.

We now proceed to examine the Act of the Jamaica Legislature under which Governor Eyre appears to have acted, as we presume, regularly.

The Act is 9 Vict. cap 30, and is a consolidation of the laws relating to militia. The sections bearing on the subject of martial law are as follows: Sect. 95 constitutes a body called a council of war, sect 96 is in these words: "And whereas the appearance of public danger, by invasion or otherwise, may sometimes make the imposition of martial law necessary, yet, as from experience of the mischief and calamities attending it, it must ever be considered as one of the greatest of evils: Be it therefore enacted, that it shall not in the future be declared or imposed but by the opinion and advice of a council of war, consisting

as aforesaid and that at the end of thirty days from the time of such martial law being declared it shall *ipso facto* determine unless continued by the advice of a council of war as aforesaid. Sect. 97 empowers the governor with such advice as aforesaid to declare particular districts to be under martial law and to except others. Sect. 117 says that This Act shall continue to be in force notwithstanding and during martial law.

It is a grave question whether if this Act be considered to confer upon Governor Eyre any other power than he already possessed at common law the Act itself would be valid. The powers of the Jamaica Legislature are derived, not from Parliament, but from Royal Commission. As the Crown cannot authorize legislation inconsistent with the law of England it could not authorize the Jamaica Legislature to confer upon the Governor or anyone else powers inconsistent with the provisions of the Petition of Right. It is indeed provided by 28 & 29 Vict. c. 63 ss. 1, 2 and 3, that no colonial law shall be deemed to be void on the ground of repugnancy to the law of England, unless it is repugnant to the provisions of any Act of Parliament applicable to any such colony by express words or necessary intendment. We apprehend however that if the Act of the Jamaica Legislature be construed as authorizing or recognizing anything declared illegal by the Petition of Right, it is repugnant to a provision of an Act of Parliament extending by necessary intendment to the colony of Jamaica.

It appears, however, that the Act does not create any new power but only limits the existing power and provides regulations under which it is to be exercised. It provides that the Governor shall not proclaim martial law without the advice and consent of a council of war constituted in a certain way and that when proclaimed it shall expire *ipso facto* in thirty days. It also provides that its operation may be limited (as in the present case it was) to certain districts.

We now proceed to the consideration of the specific questions contained in the case —

2 and 3. The legality of the conduct pursued towards Mr. Gordon depends according to the principles stated above on the question whether it was necessary for the suppression of open force, and the restoration of legal authority to put him to death. We see nothing whatever in Governor Eyre's despatch which affords any ground for thinking that such could have been the case. The fact that Kingston was exempted from martial law shows conclusively as against Governor Eyre, that in his opinion no necessity for the assumption of arbitrary power existed then and there. The fact that Mr. Gordon was in lawful custody shows that he was at all events disabled from doing further mischief however guilty he might previously have been. It would perhaps be too much to say that no conceivable state of things could justify the treatment which he received but no such facts are mentioned in Governor Eyre's despatch. As to the legal power of the officers sitting as a court martial at Morant Bay we are of opinion that they had no powers at all as a court martial and that they could justify the execution of Mr.

Gordon only if, and in so far as they could show that, that step was immediately and unavoidably necessary for the preservation of peace and the restoration of order. They had no right whatever to punish him for treason, even if he had committed it. Their province was to suppress force by force, not to punish crime.

4 This question is answered in our introductory observations. Cases might be imagined in which some of the acts specified might be justified. In a case, for instance, where the loyal part of the population were (as in the case of the Indian Mutiny) greatly out numbered by a rebellious population, measures of excessive severity might be absolutely essential to the restoration of the power of the law, but this would be a case, not of punishment, but of self preservation. No facts stated in Governor Eyre's despatch appear to us to show any sort of reason for such conduct in Jamaica.

5 They may be indicted in Middlesex under the provisions of 42 Geo. 3, c. 85. See, too, 24 & 25 Vict. c. 100, s. 9. They may also be impeached in Parliament.

6. Any person in this country may prefer a bill of indictment.

7 This is a question of great difficulty. As Governor Eyre's consent would be necessary to such an Act, and as he could not pardon himself, we are inclined to think that such an Act would be no answer to an indictment in England. Besides this, if Governor Eyre has committed any crime at all, it is a crime against the law of England. Whilst Governor, he could not be made criminally responsible in Jamaica (*Moslyn, v. Fabrigas*, 1 Smith's "Leading Cases," p. 543, 4th ed.) It is not competent to the Legislature of Jamaica to pardon crimes committed against the laws of England.

To obviate all difficulty, we should advise that if such an Act were passed, a petition should be presented to Her Majesty, praying her to refer to the Judicial Committee of the Privy Council the question whether the Act ought to be disallowed and that the petitioners might be permitted to show cause by counsel why it should be disallowed. Unless and until they are disallowed by the Queen, the Acts of the Jamaica Legislature are valid.

Temple, January 13, 1866

EDWARD JAMES
J. FITZJAMES STEPHEN

() Extracts from the despatch, dated the 18th June, 1866 of Mr Cardwell,
the Secretary of State for Colonies, on the findings of the
Jamaica Commission.

'In the conclusions at which you have arrived Her Majesty's Government generally concur. Though the original design for the overthrow of constituted authority was confined to a small portion of the parish of St. Thomas-in-the-East, yet there can now be no doubt that the disturbances there had their origin in a planned resistance to that authority. It is further evident, looking to the singular rapidity with which disorder spread over an extensive tract of country and to the state of excitement prevailing in other parts of the island, that the ultimate defeat of the insurgents would have been attended with still more fearful loss of life and property had they been permitted to obtain a more than momentary success. Under these circumstances, Governor Eyre fully deserves all the commendation which you have bestowed upon the skill, promptitude, and vigour which he manifested during the early stages of the insurrection, to the exercise of which qualities on his part you justly attribute in a great degree its speedy termination. As regards the proclamation of Martial Law under the Island Act of 1844, Her Majesty's Government agree with you that the Council of War had good reason for the advice which they gave, and the Governor was well justified in acting upon that advice. Her Majesty's Government agree in your conclusion that the military and naval operations were prompt and judicious and considering the large share personally taken by Governor Eyre in the direction of those operations, they attribute to him a large share also of the credit which is due for their success. The addresses of the Legislative Council of the House of Assembly of the various parishes of the island and of others, testify the sense generally entertained by the white and coloured inhabitants of their obligation to Governor Eyre for the promptitude and vigour of those measures.

On the other hand however it must be borne in mind that martial law and the execution of capital sentences under martial law continued for the full period of a month as authorised by the statute, although after the few first days of the insurrection no serious outrages were committed by the insurgents, nor was any resistance offered to the troops. As early as the 27th October Governor Eyre wrote to me that on the 20th he had left Morant Bay satisfied that the rebellion was got under; and on the 30th, a fortnight before the actual expiration of martial law it was formally stated in the proclamation of amnesty that the wicked rebellion lately existing in certain parts of the county of Surry had been subdued; that the chief instigators thereof, and actors therein, had been visited with the punishment due to their heinous offences; and that the Governor was certified (& satisfied) that the inhabitants of the district lately in rebellion were desirous to return to their allegiance.

"You have justly observed how much easier it is to decide such questions after than before the event, and that sometimes the success of the measures adopted for the prevention of an evil deprives the authors of those measures of the evidence they would otherwise have had of their necessity. Yet, upon a full review of all the circumstances of the case, Her Majesty's Government cannot but agree with the conclusion of your report, 'that by the continuance of martial law in its full force to the extreme limit of its statutory operation, the people were deprived for longer than the necessary period of the great constitutional privileges by which the security of life and property is provided for.' They also agree with you that, if not from the date of the apprehension and execution of Bogle, at least from the time at which the reinforcements from Nassau and Barbadoes had arrived, and the amnesty was proclaimed, 'there could have been no necessity for that promptitude in the execution of the law which almost precluded a calm inquiry into each man's guilt or innocence', and that 'directions might and ought to have been given, that courts martial should discontinue their sittings. The prisoners in custody might well have been handed over for trial by the ordinary tribunals.

"That I may do full justice to the reasons which induced him to consider desirable the continuance of martial law, I will transcribe them in his own words. In answer of your question, No 46,634, he says — 'I now give the reasons which induced me to think that martial law should be continued. They are very short — 1 In order to deal summarily with the cases excepted from the operations of the amnesty, many of the parties being as guilty as those tried by courts martial previous to the amnesty, and there being no valid reason why they should not be dealt with in the same manner. 2 To preserve peace and good order in the districts where the rebellion had existed, and to afford time to reorganise the civil institutions. The custos, the magistrates, the clergy, and other principal inhabitants had been killed, wounded, or driven away. The Inspector of Police had been killed, and the force became disorganised and demoralised. The court-house itself was burnt to the ground. It was impossible to re-establish civil institutions and relations at such a juncture, or with a sufficient time being allowed for reconstruction and for the return of magistrates, clergy, and other inhabitants who were compelled to fly during the rebellion. I think that is one very important reason why it was impossible to have suspended Martial Law.'

"And in answer to your next question, 46,635 — 'What, in your opinion, would have been the evils that would have arisen from taking that particular course on the 30th of October?', he proceeds — '3rdly. It was important that for some short time longer at least the Government should continue martial law to operate as an example and a warning *in terrorem* over the disaffected of other districts, without the necessity of imposing it in those districts. 4thly. The indication which the continuance of martial law in the county of Surry for some days after the amnesty gave of the determination of the Government to deal promptly and decisively

with persons guilty of rebellion or the concomitant crimes of murder and arson, was the most efficacious step it could take to overawe the evil-disposed in other parts of the colony and thereby prevent any rising amongst the negro population of the districts where disaffection and seditious tendencies were known to exist. Those were the four principal reasons which operated with the Government at the time.

It remains at present to consider the conclusions at which we have arrived with respect to the continuance of Martial Law in its full force, to the extreme limit of its statutory operation, and to the excessive nature of the punishments inflicted. In reviewing this painful portion of the case the greatest consideration is due to a Governor placed in the circumstances in which Governor Eyre was placed. The suddenness of the insurrection; the uncertainty of its possible extent; its avowed character as a contest of colour; the atrocities committed at its first outbreak; the great disparity in numbers between the white and the black populations; the real dangers and the vague alarms by which he was on every side surrounded; the inadequacy of the force at his command to secure superiority in every district the exaggerated statements which reached him continually from distant parts of the island; the vicinity of Hayti, and the fact that a civil war was at the time going on in that country;—all these circumstances tended to impress his mind with a conviction that the worst consequences were to be apprehended from the slightest appearance of indecision. Nor must it be forgotten that he resisted the proposal urgently made to him by the custos and the magistrates to proclaim Kingston that he refused to accede to the suggestion of Colonel Whitfield to proclaim the parishes of Trelawney St. James Hanover and Westmoreland; or to that of Major General O'Connor who thought that from the first the whole island ought to have been placed under martial law; and that in respect both to the assistance offered by the Governor of Cuba and to the summoning of British troops from Halifax, Nova Scotia, he showed himself superior to feelings of alarm expressed and entertained by those around him.

It may indeed, be admitted that, as you have said, the Government would have incurred a serious responsibility if, with the information before them they had thrown away the advantage of the terror which the very name of martial law was calculated to inspire; but it appears from the summary of the sentences by courts-martial appended to your report, that the numbers executed must have included many who were neither ringleaders of the insurrection nor participants in actual murder or outrage of the like atrocity; while for the wholesale flogging and burning of houses, the circumstances of the case do not appear to furnish any justification. Future good government is not the object of martial law. Example and punishments are not its objects: its severities can only be justified when and so far as they are absolutely necessary for the immediate re-establishment of the public safety. If I may say so, the Government has learnt rather with regret than with surprise, as the result of your careful examination of the proceedings, that while in the great majority of the cases the evidence seems to

have been unobjectionable in character, and quite sufficient to justify the finding of the court, and the account given by the more trustworthy witnesses as to the manner and deportment of the members of the Courts was decidedly favourable, yet you have been compelled also to call attention to some cases in which either the finding or the sentence was not justified by any evidence appearing on the face of the proceedings, and to other cases, of which the evidence allowed to be given was of a most objectionable description, and again to others, in which the sentences seem to have been wholly disproportioned to the offences charged . . .

“ Her Majesty’s Government have arrived at this conviction with the deepest concern. They are desirous of recognising every consideration which can extenuate the condemnation it necessarily involves. But their anxiety must be to prevent the recurrence in any future case of proceedings like those which they now deplore. It appears to them to be evident that, even in the first excitement of the disturbances, and still more at some later period, if martial law was allowed to continue, instructions ought to have been issued to the officers to whom the actual conduct of the operations was entrusted which would have rendered such an abuse of power impossible. They agree entirely in the words which you have adopted, etc., (quoting the words already cited)

“I think it is due to Mr. Eyre that I should accompany this observation by the statement that, in the instructions to Colonial Governors, no reference is made to the possible occurrence of such an emergency as that in which he was placed. How far it may be possible to frame general instructions which might assist the Governor in the case of future disturbances arising in any colony, is a subject which will receive careful consideration at the hands of Her Majesty’s Government

“It appears that Mr. Eyre was only very generally informed of the measures actually taken. In his first despatches in reply to my enquiries, he said that whilst all the general arrangements for the suppression and punishment of the rebellion were made under his immediate direction, the subordinate details, and the internal management of the districts under martial law, including the appointment of courts martial, the trial of prisoners, the approval of sentences, and the carrying out of such sentences, rested entirely with the military authorities, were reported to the General in Command, and only partially came under his own notice in a general manner, and in his despatch of April 5, he further says — ‘Having been personally present in the eastern district up to 20th October, and considering that one of the chief grounds stated for the appointment of a commission of enquiry was an allegation of excessive and unlawful severity, I think it right to mention that no such cases came under my own observation, nor were any brought to my notice, or any complaints made to me against the officers in command during the whole period of Martial Law’, and he then proceeds to relate instances in which abuse had subsequently come to

his knowledge, and in which he had taken measures for punishment or for enquiry. With respect to the measures of severity to which I have above referred, you have not imputed and Her Majesty's Government do not impute to Mr Eyre any personal cognizance at the time, of those measures, but they feel strongly that, when a Governor has been compelled to proclaim martial law it is his bounden duty to restrain within the narrowest possible limits the severities incident to that law and, for that purpose to keep himself constantly informed of what is taking place under it. In the first alarm of such a disturbance, it cannot be expected that it will be possible for him to restrain all persons, acting under martial law within the bounds which his own discretion would prescribe; but if it were deemed necessary to continue martial law it was the duty of the Governor to inform himself of the character of the proceedings taken, and to put an end to all proceedings which were not absolutely necessary and therefore justifiable on the ground of necessity. Her Majesty's Government cannot, therefore, hold the Governor of the colony irresponsible either for the continuance or for the excessive severity of those measures.

In his first despatch Governor Eyre directed the especial attention of Her Majesty's Government to the case of Mr Gordon who had been arrested at Kingston, where martial law did not prevail, had been carried to Morant Bay tried by court-martial at that place, condemned, and executed. To all the circumstances of this case you have given great attention, and have reported your opinion that 'the evidence, oral and documentary appears to be wholly insufficient to establish the charge upon which the prisoner took his trial. In this conclusion Her Majesty's Government concur. They have not forgotten that, while Governor Eyre at first exempted Kingston, on grounds of public policy from the proclamation of martial law he had it in his power and would have exercised that power to issue a new proclamation, if he had thought it necessary to do so, before arresting Mr Gordon. They have duly weighed the reasons which he has assigned for the course which he pursued namely 'that, considering it right in the abstract, and desirable as a matter of policy that whilst the poor black men who had been misled were undergoing condign punishment, the chief instigator of all the evils should not go unpunished he at once took upon himself the responsibility of the capture and that, having seen the proceedings of the court, he concurred both in the justice of the sentence and of the policy of carrying it into effect, regarding it as absolutely necessary for the future security of Jamaica, that condign punishment should be inflicted upon those through whose seditious acts and language the rebellion had originated. But it is evident that such considerations ought to be admitted with great hesitation. If lightly accepted, they would be liable to great abuse, and cases like the present, instead of being regarded as warnings, might become precedent for future action.

In the present case not only has the necessity of the course adopted not been proved but it appears from the evidence of Mr Westmoreland, one of the executive Committee, that he suggested at the time that Mr Gordon who had

been placed on board the *Wolverine*, should be reserved for trial by a regular tribunal, with all the means of defence secured by the ordinary process of law to every subject of the Queen. This, in the judgment of Her Majesty's Government, would have been the proper course. Considerations of public safety justified the arrest of Mr Gordon. His removal on board the *Wolverine* would have been judicious, but his trial by Court Martial, and his execution by virtue of the sentence of that court, are events which her Majesty's Government cannot but deplore and condemn.

"Her Majesty's Government have been advised, by the law officers of the Crown, that the effect of the Indemnity Act will not be to cover acts done, either by the Governor or by subordinate officers, unless they are such as (in the case of the Governor) he may have reasonably, and in good faith, considered to be proper for the purpose of putting an end to the insurrection, or such as (in the case of subordinates) have been done under, and in conformity with, the orders of superior authority or (if done without such orders) have been done in good faith, and under a belief, reasonably entertained, that they were proper for the suppression of the insurrection, and for the preservation of the public peace of the Islands. As regards all acts done by or under military authority Her Majesty's Government are advised that the proclamation of martial law, under the Islands Statute of 1844, operated within the proclaimed district to give as complete an indemnity as the Indemnity Act itself. But—1 For any acts done beyond the proclaimed district, the authority of the Act of 1844, and of the proclamation, is inapplicable. 2 Civilians who may have acted *bona fide* for the suppression of the rebellion, although without military authority, would have a protection secured to them by the Indemnity Act which they might not obtain from the mere operation of martial law. 3 Under the Indemnity Act, the certificate of the Governor is conclusive for the protection of subordinates. I have already directed you, and your own judgment doubtless would have led you to the same conclusion, how careful you must be in giving these certificates, and, with this precaution taken, Her Majesty's Government have determined that the Act of Indemnity ought be left to its operation.

"On my own part, I have to request that you will cause careful investigation to be made, in those cases of civilians which appear to require it, with a view to such further proceedings as may be requisite and just. It will not be desirable to keep alive in the colony the heartburnings connected with these lamentable occurrences, by any very minute endeavour to punish every act which may now be the subject of regret. But great offences ought to be punished. I rely on your Government to accomplish this necessary object, and shall expect to receive a full report of the measures which have been taken with that view. You will, of course, be very careful not to give certificates under the Indemnity Act, in any cases in which there is reasonable ground to question the propriety of giving them.

(6)—Martial Law and the Constitution of England

(From *Constitutional Law of England* by E. IV. Ridge)

Conclusions as to Martial Law by Prerogative. From consideration of the authorities on martial law in connection with prerogative, the following deductions may be made —

(1) The Crown's prerogative to declare martial law does not exist in time of peace its extent in time of war if it exists at all has never been judicially determined but the only excuse for its exercise is the necessity occasioned by an actual state of war or rebellion or insurrection amounting to war

(2) Its exercise must cease with the necessity which gave rise to it, and the civil courts will grant a *habeas corpus* in the case of persons detained in military custody for acts done after the war insurrection or rebellion is over (Wolfe Tone's Case)

(3) The extent of the Crown's prerogative being uncertain, the Government would either obtain Parliamentary sanction for its exercise, or Acts of indemnity would be passed

(4) There seems no reason why supposing the same necessity to exist, martial law should not be proclaimed in England, as well as in the colonies or Ireland; but in this case the Government would probably be particularly careful to obtain the sanction of Parliament

(5) Where a state of war actually exists and is recognised by the courts, the latter even though they may be still sitting for some purposes, have no jurisdiction over the actions of the military authorities (*ex parte Marais*). But it seems doubtful whether sentences of fine or imprisonment would be valid without confirmation by Parliament

(7).—Suppression of Riots by the Military.

Opinion of the Attorney General Sir John S. Copley, on the authority of
the military to take away life in suppression of a riot in
the island of Barbadoes

Lincoln's Inn, January 18, 1824

My Lord,—I have had the honour to receive your Lordship's letter, dated the 6th instant, transmitting to me therewith a letter from Governor Sir Henry Warde, dated Barbadoes, the 4th of November last, together with a memorial from the Council of that island, requesting the opinion of the law officers of the Crown upon the question therein stated, *viz*, 'Whether there is any statute passed before the settlement of that island in the year 1625, which authorises the military, acting under the magistrate for the suppression of a riot, to take the life of rioters, if such a measure should be necessary, and, if not, is such a proceeding sanctioned by the common law of England'

Your Lordship also enclosed despatches from the Governor reporting the occurrences which had lately taken place in the island, and which had given rise to the present application. And your Lordship was pleased to state that you had received his Majesty's commands to desire that I would take the papers into consideration, and report to your Lordship as speedily as possible, for his Majesty's information, what instructions it might, in my opinion, be proper to transmit to the Governor upon the case stated

In obedience to the commands of his Majesty, I have taken the papers as speedily as possible into my consideration, and beg leave to report to your Lordship that there is no statute passed before the settlement of the island of Barbadoes in the year 1625 and now in force, of the nature above alluded to, but by the common law the military may effectively act under the direction of the civil power in the suppression of the riots. The Late Chief Justice Mansfield, in the case of *Burdett V Abbott*, in the Exchequer Chamber (4 Taunt Repp 449), in speaking upon this subject, observes that a "strange mistaken notion had got abroad, that because men were soldiers they ceased to be citizens. A soldier (he adds) is gifted with all the rights of other citizens, and is bound to all the duties of other citizens, and he is as much bound to prevent a breach of the peace or a felony as any other citizen. This notion is the more extraordinary, because formerly the *posse comitatus*, which was the strength to prevent felonies, must in a great proportion have consisted of military tenants who held lands by the tenure of military service. If it is necessary for the purpose of preventing mischief, or for the execution of law, it is not only the right of soldiers, but it is their duty, to exert themselves in assisting the execution of a legal process, or to prevent any crime or mischief being committed. It is therefore highly important that the mistake should be corrected which supposes that an Englishman, by taking upon him the additional character of a soldier, puts off any of the rights and duties of an Englishman"

Soldiers, when called upon and required to aid the civil magistrate in apprehending or opposing persons engaged in a riot, will be justified in using the force necessary for that purpose; any excess will be illegal and for such excess the soldier as well as the mere citizen, will be responsible. In this respect the law as applicable to both classes is the same. If, in executing the commands of the magistrate, opposition is made by the rioters, force may be opposed to force but the same rule still applies viz. that the extent of the force used must be regulated by the necessity of the occasion. The excess only is illegal. If the military in obeying the lawful commands of the magistrate, be so assailed that resistance cannot be effectually made without sacrificing the lives of the rioters, they would in law be justified in so doing. It is obvious, therefore, that each case must depend upon its own circumstances, and the only rule that can be given is that the force to be legal and justifiable, must in every instance as far as the infirmity of human passion will admit, be governed by what the necessity of the particular occasion may require.

I beg leave to suggest that it will be proper to direct the Governor to take especial care that a magistrate be present when the military are called out for the purpose of suppressing a riot, and that they act in his aid and by his command. Temper and coolness upon such occasions, and forbearance as far as it can be exercised consistently with the public safety cannot be too strongly recommended.

To Earl Bathurst
 &c. &c.

J S COPLEY



APPENDIX V.

The Indemnity Act.

(1)—Indemnity Act, 1860.

Act XXXIV of 1860.

RECEIVED THE G. G.'S ASSSENT ON THE 2ND AUGUST 1860.

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances, and wherens assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes, and [whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the tenth day of May 1857 in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts, It is enacted as follows —

1. All fines, penalties, assessments, and contributions imposed since the tenth day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same

Indemnity in respect of fines, penalties etc., imposed since 10th May 1857

shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the Executive Government ; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof

Provided that nothing in this Act shall authorize the levy of any fine penalty
 Provision. assessment or contribution not already levied

2. All acts done since the tenth day of May 1857 in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid ; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

Indemnity for certain acts done since 10th May 1857

(2) —Text of the Indemnity Bill, 1919

The following is the full text of the Bill to indemnify officers of Government and other persons in respect of certain acts done under Martial Law, and to provide for other matters in connection therewith —

Whereas owing to recent disorders in certain districts in the Punjab and in other parts of India it has been necessary for the purposes of maintaining or restoring order to resort to Martial Law,

And whereas it is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done, or purporting to have been ordered or done, for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purpose,

And whereas certain persons have been convicted by courts and other authorities constituted or appointed under Martial Law and it is expedient to confirm and provide for the continuance of sentences passed by such courts or authorities,

It is hereby enacted as follows

(1) This Act may be called the Indemnity Act, 1919

(2) No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for on account of or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India, on or after the 30th of March 1919, and before the commencement of this Act by any such officer or person, provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes, and if any such proceeding has been instituted before the passing of this Act it is hereby discharged

(3) For the purposes of Section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all actions taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that they were necessary therefor unless the contrary is proved

(4) Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under Martial Law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor General in Council or otherwise discharged by lawful authority

(5) Where under Martial Law the property of any person has been taken or used by any officer of Government whether civil or military the Governor General in Council shall pay to such person a reasonable compensation for any loss immediately attributable to such taking or using to be assessed upon failure of agreement by a person holding judicial office not inferior to that of District Judge to be appointed by the Government in this behalf

(6) Nothing in this Act shall (a) apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919 (b) be deemed to bar a full and unqualified exercise of his Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein or (c) prevent the institution of proceedings by or on behalf of Government against any person in respect of any matter whatsoever

(3).—The Indemnity Act, 1919

(Received the assent of the Governor General on the 25th September, 1919)

ACT No XXVII OF 1919.

An Act to indemnify officers of Government and other persons in respect of certain Acts done under Martial Law, and to provide for other matters in connection therewith.

WHEREAS owing to the recent disorders in certain districts in the Punjab and in other parts of India, martial law has been enforced,

And whereas it is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes,

And whereas certain persons have been convicted by courts and other authorities constituted or appointed under martial law, and it is expedient to confirm and provide for the continuance of certain sentences passed by such courts or authorities,

It is hereby enacted as follows —

Short title 1 This Act may be called the Indemnity Act, 1919

2. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done, or purporting to have been ordered or done, for the purpose of maintaining or restoring order in any part of British India where martial law was enforced, on or after the 30th of March, 1919, and before the 26th of August 1919 by any such officer or person, provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes,

Indemnity of Government officers and other persons for certain acts

and if any such proceeding has been instituted before the passing of this Act it is hereby discharged

3 For the purposes of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved,

Rules of evidence

4. Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence or until released by the Governor General in Council or otherwise discharged by lawful authority.

5. Where under martial law the property of any person has been taken or used by any office of Government whether civil or military the Governor General in Council shall pay to such person reasonable compensation for any loss immediately attributable to such taking or using, to be assessed upon failure of agreement by a person holding a judicial office not inferior to that of a District Judge to be appointed by the Governor General in Council.

6. Nothing in this Act shall—

Saving

- (a) apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919
- (b) be deemed to bar full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein or
- (c) prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever

(4) — Act of Indemnity.

(A NOTE BY MR C R DAS)

The recent announcement by His Excellency, the Viceroy, makes it incumbent on us to examine the nature and limits of an Act of Indemnity. It has been asserted by the Anglo Indian Press that the promulgation of Martial Law is invariably followed, when Martial Law comes to an end, by an Act of Indemnity. It is necessary to dispose of this fiction at the very outset. The Duke of Newcastle, when Colonial Secretary, objected to the statement in the Colonial Act of Indemnity passed after the existence of Martial Law in St Vincent in 1862 that "the proclamation of Martial Law had been lawfully issued" on the ground that "the proclamation was right and necessary, but was not strictly lawful, and to declare it so would be to endanger a most important constitutional principle. In proclaiming Martial Law, the executive authority in fact declares itself obliged, for the protection of the community, to neglect the law, trusting to the Legislature to relieve all who in obedience to constituted authority may have acted in the defence of the public safety from the consequence of so doing. The Indemnity contained in the second clause is too wide. It would enable a person to escape punishment for the most wanton and unjustifiable acts, even to homicide, if it could be shown that he had been in any wise engaged in suppressing or endeavouring to suppress the insurrection" (Code II, 511). So in 1867 Lord Carnarvon, when Colonial Secretary, refused to recommend for the royal assent an enactment of Antigua, making it legal for the Government to proclaim Martial Law. Mr G C Phillimore, an accomplished writer on the subject, said in a paper which he contributed to the journal of comparative legislation that "Colonial Secretaries have frequently refused to recommend for the royal assent Colonial Acts of Indemnity." Indeed, the traditional attitude of the Colonial Office may be seen from the following circular letter, which was issued to the Governors of Colonies —

"An enactment which purports to invest the Executive Government with permanent power of suspending the ordinary law of the Colony, of removing the known safeguards of life and property, and legalising in advance such measures as may be deemed conducive to order by the military officers charged with the suppression of disturbances, is entirely at variance with the spirit of English Law. If its existence can in any way be justified, it can only be because there exists such a state of established insecurity as renders it necessary, for the safety and confidence of the well disposed, that in times of national emergency the Government shall possess this extraordinary facility for the suppression of armed rebellion, but, whatever apprehensions or disturbances may exist in any of Her Majesty's Colonies, it is certain that no such chronic insecurity prevails in any of them, and in no colony therefore should the power be given by the present law to the Governor of Antigua be suffered to continue In giving you these instructions, Her Majesty's

Government must not be supposed to convey an absolute prohibition of all recourse to Martial Law under stress of great emergencies and in anticipation of an Act of Indemnity. The justification however of such a step must rest on the pressure of the moment and the Governor cannot by any instructions be relieved from the obligation of deciding for himself under that pressure whether the responsibility of proclaiming Martial Law is or is not greater than refraining from doing so." (Code 11 567)

No reasonable person will deny that in an emergency when the whole fabric of Government is threatened the State is entitled to protect itself by having recourse to Martial Law. When there is no order there can be no law and the only law that will guide the proper authority is the law of necessity. Just as necessity justifies Martial Law so it must justify the duration of it and the methods adopted for administering Martial Law. And when it has been established (but not before) that this supreme and paramount necessity did exist and that the methods adopted were not in excess of what was strictly necessary for restoring peace and the authority of law the State is entitled and even bound to protect its servant by passing an Act of Indemnity. The true scope of an Act of Indemnity is to legalize that which was illegal, but which was necessary for the restoration of law and order. It seems to be plainly within the competence of the Legislature and Willes, J. in the celebrated case of *Phillips v Eyre* (1 R. 6 Q. B. 1 at 17) which could have authorized by antecedent legislation the acts done as necessary or proper for preserving the public peace, upon a due consideration of the circumstances to adopt and ratify like acts, when done, in the language of the law under consideration to enact that they shall be made and declared lawful and confirmed. Such is the effect of the Act of Indemnity in question.

The power of a Legislature to pass an Act of Indemnity is therefore undoubted but it is a power which can only be exercised when two essential conditions have been satisfied, namely first, that there was a supreme and paramount necessity which justified the promulgation of Martial Law and secondly that excesses of authority were not committed in the administration of Martial Law. Indeed the Acts of Indemnity in England have always been purposely framed so as to give Parliamentary sanction only to such acts as have *bona fides* and of necessity been done to meet the demands of the emergency justifying the proclamation of Martial Law and it has been held that such an Act, as invariably framed in England does not protect persons who have been exercising Martial Law from criminal liability for any excess of authority committed by them, on the ground that there are not justified by necessity. See *Wright v Fitzgerald* 27 State Trials, p. 765.

It will be necessary to take an Act of Indemnity passed by the British Parliament to illustrate my meaning. After the rising of 1715, the British Parliament passed an Act of Indemnity "to indemnify such persons who have acted in defence of His Majesty's person and Government, and for the preservation of the public peace of the kingdom" and it provided as follows — "Whereas in the year of our Lord one thousand seven hundred and fifteen, as well in the time of, as before the unnatural Rebellion, which begun in or about the months of September or October in the same year, divers Lord Lieutenants, Deputy Lieutenants, Justices of the Peace, Mayors, Bailiffs of Corporations, Constables, and other officers and persons well affected to His Majesty and His Government, in order to preserve our ancient happy establishment, and the peace of this Kingdom, and suppress and put an end to the said rebellion, apprehended and put into custody, and imprisoned several criminals and several persons, who they suspected, might disturb the public peace, or foment or promote riots, tumults, rebellions, or evil designs against the Government, and also seized and used several horses, arms and other things, and also pressed divers horses, carts and carriages for the service of the public, and did for the purposes aforesaid enter into the houses and possessions of several persons, and did quarter and cause to be quartered divers soldiers and others in the houses of divers persons, and did divers acts which would not be justified by the strict forms of law, *and yet were necessary, and so much for the service of the public, that they ought to be justified by Act of Parliament*, and the persons by whom they were transacted ought to be indemnified, be it therefore enacted, all personal actions, etc., *for anything done in order to suppress the Rebellion in 1715 shall be discharged*'

It is manifest from a mere perusal of this Statute that the two essential conditions for an Act of Indemnity are, first, that the acts done were necessary and for the service of the public, and secondly, that the acts done were in order to suppress the rebellion and not in excess of what was strictly necessary to suppress the rebellion. As regards the first condition, there can be no doubt. As regards the second, the weighty observations of Mr. Justice Chamberlain in his charge to the jury in the case of *Wright v Fitzgerald* (27, State Trials, pp 765 at 766) may be cited, "It is required," said His Lordship, "that he should not exceed the necessity which gave him the power, and that he should show, in his justification, that he had used every possible means to ascertain the guilt which he had punished, and, above all, no deviation from the common principles of humanity should appear in his conduct."

The principles being well established, it is necessary next to enquire whether it is possible for the Indian Legislature to declare, before the Committee appointed by the Governor General in Council has reported to that Council, first, that there was a justifying necessity for the promulgation

of Martial Law; and secondly that the acts done in the administration of Martial Law were not in excess of their powers. His Excellency in his recent speech in the Council said "After disorders involving great upheaval of normal conditions such an enquiry as I have just announced is one inevitable consequence. The second and no less necessary sequel is the passing of an Act indemnifying these officers of the Government, who were called upon to undertake the onerous and ungrateful task of restoring order and the validating of such acts as the stress of circumstances required. Whatever the findings of the Commission may be, such a measure would be necessary and in justice to our officers, we are bound to indemnify them at the earliest convenient moment."

I quite agree that an enquiry is inevitable after the recent events in the Punjab but I would add that in an enquiry in the past has always included an enquiry into the necessity of Martial Law and that the enquiry has always been held by the British Parliament and not by the Government responsible for the promulgation of Martial Law. I will give two instances. The Ceylon rising of 1845 led to the appointment of a Committee of the House of Commons to enquire into the proceedings under Martial Law before which the Judge Advocate General, Sir David Dundas, gave evidence. After the period of Martial Law in Jamaica, a Parliamentary Commission was sent to the island which, after an exhaustive investigation into all the circumstances of the execution of Martial Law reported that the declaration of Martial Law was justifiable, the proceedings were rebellious and of deep design, and that the Commissioners fully approved of the conduct of the Governors and officers in the prompt measures which they have been that Martial Law was continued longer than was necessary and the punishments that were inflicted were excessive in the later stages, and that much that was lamentable might have been avoided if clear and precise instruction had been given for the regulation of those engaged in suppressing the rebellion and as regards Gordon (who was shot after a trial by Court Martial) they were of opinion that the express evidence forthcoming did not appear to be sufficient to establish the charge against him and that there was no widespread conspiracy to which he was privy. On these findings, which were concurred in by Mr Cardwell, the Colonial Secretary criminal proceedings were brought by the Crown against Governor Eyre and General Nelson.

I ask is there any precedent for a Committee of Enquiry being appointed by a Government responsible for the promulgation of Martial Law. The question at issue is did the Government of India act rightly or with discretion in promulgating Martial Law in the Punjab. The Government of India concedes that an enquiry is necessary but says we shall ourselves, appoint the Committee of Enquiry and the Committee of Enquiry must report to us. We are now told that the Government of India will merely act as the Post Office and that the report will really be considered by the

mittee whatever. That position would have been politically indefensible but bureaucratically unassailable but still it was open to them to take up this position. If they had taken up this position it was not only entitled to, but indeed bound in honour at once to pass an Act of Indemnity the conditions precedent for such an Act being shown to exist so far as the Government of India is concerned. But this is not the position that has been taken up by Government. It does indeed protest that there was complete justification for Martial Law and the administration thereof; but it concedes and invites an enquiry into the whole question relating to the recent events in the Punjab. It concedes therefore (if I have correctly understood the function of the Committee) that it will be open to the Committee to differ completely from the advice of the Government of India. What justification is there for the Government to proceed with an Indemnity Bill at this stage before the Committee has made its report to the Government of India?

The view which I earnestly press upon the Government of India is this. The true scope of the Act of Indemnity is to legalise illegalities only when it has been shown that there was paramount necessity in the perpetration of these illegalities and only so much illegality (and not one jot of iota more) as was essentially necessary in the circumstances. You may say but if you take up that position then dismiss the Committee which you yourself have set up in utter disregard of every constitutional precedent and not, as courageous men on your own responsibility. But it is not fair to the country it is not fair to the Committee it is not fair to yourselves to appoint a Committee and then proceed to deliver the following message to the Committee through the instrumentality of an Act of Indemnity. If you agree with us well and good. If not so much the worse for your verdict because we have formed our opinion on the materials before us and we decline altogether to concede your verdict.

(5)—The Punjab Indemnity Bill

SOME SUGGESTIONS FOR AMENDMENT

(By Sir P. S. Sivaswami Aiyer)

A few days ago, the suggestion was made by the Madras Liberal League, that if the Government considered it necessary to pass a measure immediately for the protection of officers and other persons against legal proceedings at the instance of persons aggrieved by the administration of martial law, their objects might be temporarily but effectively attained by passing an Act suspending all actions and proceedings by persons aggrieved, and the running of limitation against them, pending the inquiry by the Commission and the disposal of the appeals by the Privy Council. The Legislative Council would then be in possession of all the circumstances of the case and be able to pass a final Indemnity Bill adapted to the requirements of public interest and justice. But, as unfortunately, there is no chance of this course being adopted, it is necessary to scrutinise the language of the Bill and suggest such amendments as may now appear to us to be necessary. The Bill was published here on the 15th instant, and it was stated that it would be introduced yesterday or to day and passed into law on the 24th instant. The interval allowed to the country for the study of the Bill and making representations thereon is altogether insufficient, and the haste with which it is being rushed through in the Council is, to say the least, indecent, more especially when, so far as the public are aware, not even a single suit has been instituted against any officer up to this moment.

The following few suggestions for the amendment of the Bill are the result of such consideration as I have been able to give to the language of the Bill.

Preamble—Wherever the words “maintaining or restoring order” occur, it is necessary that the words “maintaining or” should be deleted. It is well established that martial law can be introduced only during a state of actual war, insurrection or rebellion, that the moment this state of things comes to an end the application of martial law ceases to have any justification, and that it cannot be resorted to for the purpose of bringing offenders to trial and punishment. The resort to martial law, for the purpose of *maintaining order* as distinguished from the *restoration of order* is not justified.

Clause 2—The words “acting under the orders of any such officer” are much too wide and should be restricted. As the clause stands, it would cover an order given by the humblest policeman. The general rule of liability in regard to subordinates is, that they are protected if they act under the orders of a person, whom they are generally bound by the rules of their service to obey, and the orders are of a kind which that person is generally authorised to give, and the particular order is not necessarily or manifestly unlawful. As regards outsiders, too, though they are bound in certain cases to assist authorities in the suppression of disorder

(6) —The Indemnity Bill

(By Sir Narayan Chandavarkar)

Surprise is expressed in some quarters that Indian politicians of all shades of opinion have opposed the decision of the Government of India to introduce an Indemnity Bill in the Imperial Legislative Council at the earliest convenient moment for the purpose of indemnifying all the officers in respect of their acts in connection with the recent disturbances. Moderate politicians are once again charged with joining and placating Extremists in this opposition. The authority of the constitutional lawyer A. V. Dicey is cited in support of the principle and policy of the measure.

But here is what Mr Dicey says in his book called "A Leap in the Dark":—

Of all the laws which a Legislature can pass, an Act of Indemnity is the most likely to produce injustice. It is, on the face of it the legalisation of illegality: the hope of it encourages acts of vigour but it also encourages violations of laws and of humanity. The tale of flogging Fitzgerald in Ireland, or the history of Governor Eyre in Jamaica is sufficient to remind us of the deeds of lawlessness and cruelty which in a period of civil conflict may be inspired by recklessness or panic and may be pardoned by the retrospective sympathy or partisanship of a terror-stricken or vindictive legislature."

Further on he writes:—

An *ex post facto* law is the instrument which a legislature is most apt to use for punishing the unpopular use of legal rights. There is not a landlord there is not a magistrate there is not a constable in Ireland who may not tremble in fear of *ex post facto* legislation. There is no reason as far as the Home Rule Bill goes, why the gaoler who kept Mr William O'Brien in prison, or the warders who attempted to pull off his breeches, should not be rendered legally liable to punishment for their offences against the unwritten law of Irish sedition. No such monstrosity of legal mequity will it may be said, be produced. I admit this. But the very object of prohibitions" (against the passing of an *ex post facto* law) is the prevention of outrageous injustice. The wise founders of the United States prohibited to Congress and to every State legislature the passing of *ex post facto* legislation.

The principle of an Indemnity Act is generally understood to be this: Where Government are compelled to adopt extreme measures to cope with and put down disturbances of an extraordinary character amounting to rebellion, and when the ordinary law is inadequate for the purpose and martial law becomes necessary policy and practice require the passing of an Indemnity Act to protect themselves and their officers against liability for any mistakes or excesses committed in the *bona fide* exercise of their extraordinary powers.

The principle of such legislation underlies, for instance, the Judicial Officers' Act, which provides that Judges are absolutely protected from all liability in respect of their decisions, when those decisions relate to matters within the jurisdiction of the judge concerned, and that a Judge is also so protected in respect of decisions relating to matters outside his jurisdiction, if the decisions in such matters were passed *bona-fide* and not from any by motive, such as malice

That principle is regarded as applying to the officers, who carry out the orders of Government in coping with lawlessness by means of martial law on the ground usually assigned, that they have a moral and also legal claim to be indemnified against acts committed *bona-fide*, and not from any by motive, in exercise of their jurisdiction under martial law. They can claim no such right in respect of acts committed perversely or recklessly, perversity and recklessness being evidence presumptive of by motives and malice

So much for the constitutional aspect of the question

Now as to its application to H. E. the Viceroy's two announcements (1) that an Indemnity Bill will be introduced "at the earliest convenient moment" into the Imperial Legislative Council, and (2) that a Commission has been appointed to enquire into the causes of, and the measures adopted regarding, the recent disturbances

Mr Dicey's opinion quoted above from his booklet, "A Leap in the Dark," published in 1893 examined into "the leading principles" of the Irish Home Rule Bill, officially styled "The Irish Government Act, 1893," introduced in that year in Parliament

In Mr. Dicey's opinion, one serious defect of that Bill was that its provisions relating to the restrictions on and safeguards against the legislative power of the contemplated Irish Parliament, "contain no prohibition against the passing of an Act of Indemnity" by that Parliament. Such a prohibition was, he thought, necessary, because —

"Circumstances no doubt may arise in Ireland, as in other countries, under which the maintenance of order or the protection of life may excuse or require deviation from the strict rules of legality. But the question, whether these circumstances have arisen, will always be decided far more justly by the Parliament at Westminster than it can be decided by the Parliament at Dublin. Can any one really maintain that a Parliament in which Mr Healy, or, for that matter, Col Saunderson might be leader, would be as fair a tribunal as a Parliament under the guidance of Mr Gladstone or Lord Salisbury for determining whether an officer, who, acting under the direction of the Irish Government and with a view to maintain order at Belfast or Dublin, should have put an agitator or conspirator to death without due trial, had or had not done his duty?"

Apply that to India substituting India for Ireland and Simla for Dublin and so on in the passage also and it ought to follow that Mr Dicey's high authority as a constitutional lawyer of acknowledged repute that not the Indian Legislature but the British Parliament ought to pass an Indemnity Act if after having considered whether circumstance necessitating it has arisen it concludes that they have. Whether those circumstances have arisen can be settled by Parliament only after a Commission appointed by the Crown on its behalf has enquired and reported the results of its enquiry to the Crown for consideration by Parliament.

That is the sound constitutional principle and policy supported by the high authority of Mr Dicey. It justifies the unanimously unanimous Indian protest against—(1) the appointment of the Commission of Enquiry by the Government of India instead of by the Crown and (2) the introduction of an Indemnity Bill in both Imperial Legislative Councils in India.

That protest is against what one might well call a leap in the dark. —*The Indian Social Reform*



APPENDIX VI.

Punjab Disturbances and Imperial Legislative Council.

(1) —Hon'ble Pandit Malaviya's Questions.

The Hon'ble Pandit Madan Mohan Malaviya gave notice of the following questions, which he wanted to ask at the Simla session of the Imperial Legislative Council, which was held in September, 1919. With the exception of a few minor questions, all the others were disallowed by His Excellency the President on the plea that the Hunter Committee would investigate the whole matter. It is interesting to note, that the Hunter Committee did not record any evidence on most of the matters contained in these questions. The questions are given below —

I —Will the Government be pleased to lay on the table a statement showing —

(a) The number of persons actually arrested and detained in custody in connection with the recent disturbances in the Punjab, classified according to town or village, and showing the names, parentage, caste, profession and place of residence of the persons arrested or detained ,

(b) the number of persons out the above list who were actually put on trial

(i) before the Commissions constituted under the Martial Law Ordinance of 1919 promulgated by the Governor General ,

(ii) before the Summary Courts established under the orders of the General-Officers Commanding the Lahore and Rawalpindi Divisions ,

(iii) before the Area Officers constituted by or in virtue of the powers conferred by the General Officers Commanding the Lahore and Rawalpindi Divisions for offences against the Proclamation issued on the 19th April, 1919, (Notification No 10,766 of Home Department Military, dated 21st April, 1919) ,

(iv) before the ordinary municipal courts in districts where Martial Law was not declared; and

() before the Special Tribunal constituted under the Defence of India Act

(c) number of persons convicted out of those mentioned in clause (b) and the offence or offences of which they were convicted and the sentences passed in each case

(d) the number of persons discharged or acquitted out of those mentioned above in clause (A)

() the number of persons arrested but released.

If —Will the Government be pleased to lay on the table a statement giving the following particulars regarding all cases tried by the Summary Courts established by the General Officers Commanding the Lahore and Rawalpindi Divisions and also by the Area Officers appointed under Notification mentioned in O I (b) iii

(a) The total number of cases decided by each of the said courts and officers from day to day;

(b) The number of cases in which summaries or memoranda of evidence and reasons for findings arrived at were recorded;

() The number of cases in which only reasons for findings arrived at were recorded

(a) the number of cases in which no summary or memorandum of evidence, no any reasons for the findings arrived at, were recorded and

() the number of cases in which the record does not show even the offence charged

III —Will the Government be pleased to lay on the table a statement, showing —

(a) the number of applications for copies of judgments and evidences and other proceedings of the Summary Courts and of the courts of the Area Officers made on behalf of the persons convicted, to the Legal Remembrancer, the District Magistrates, Martial Law Administrators and other civil or military authorities

(b) the number of cases in which copies have been supplied and

() the number of cases in which such copies have been refused and the reasons for such refusal.

IV —Will the Government be pleased to lay on the table a statement showing —

(a) the number of persons flogged in each town or village within the martial law area in the Punjab, whether

(t) under Martial Law,

(i) on conviction, or

(ii) without conviction

or

(2) under the Ordinary Criminal Law during the period in which Martial Law was in force, giving names, parentage, age, caste, profession and residence of the persons flogged ,

(b) the offence for which each such person was convicted and the name and designation of the officer who passed the order ,

(c) the number of stripes inflicted on each such person , and

(d) the name of the locality where the flogging was administered.

V —Will the Government be pleased to state —

(a) the number of persons who were sent under the martial law to the Central Jail, Lahore, to flogged there, and were actually flogged ,

(b) the authority under whose orders they were so flogged , and

(c) whether there is a record of all such cases of flogging If there is, will the Government be pleased to lay it on the table? -

VI —Will the Government be pleased to give the names, ages and other particulars of persons who were flogged on being arrested and subsequently put on trial in what is known as the Sherwood case of Amritsar ?

VII —Will the Government be pleased to lay on the table lists of persons who, after being sentenced by Martial Law Commissioners or other Martial Law officers, were

(a) executed,

(b) transported,

(c) confined in the Lahore Central and Borstal Jails and various District Jails in the Punjab ?

VIII —Will the Government be pleased to lay on the table a statement, showing the total number of persons who were (1) killed or (2) died of wounds, or (3) were wounded but recovered during the recent disturbances in the Punjab, giving the names, parentage and other particulars and specifying the place where each person was killed or wounded ?

IX —(a) Will the Government be pleased to state how many people were (1) killed and (2) wounded by the firing that took place on

- (i) the Upper Mall Lahore on the 10th April
- (ii) outside the Lohari Gate on the 10th April
- (iii) in the Hira Mandi Chawk on the 12th April?

(d) Will the Government be pleased further to state the number of persons injured if any among the Police or the Military specifying the nature of their injuries received in the places and on the occasions mentioned above?

X—Will the Government be pleased to state what steps were taken by the Police or the Military to disperse the crowd in the three places mentioned in the preceding question before they resorted to firing; also to state what was the immediate cause, which necessitated the firing on each occasion?

XI—Will the Government be pleased to state, if it is a fact that some of the wounded on the Upper Mall, Lahore, who had been taken possession of by the Police, were removed to the Charing Cross Police Station and not to the hospital which was nearer and that some out of this number died at the Police Station, without any medical aid? Will the Government be pleased to state the number of persons, who so died at the Police Station, with their names and other particulars?

XII.—Will the Government be pleased to state (a) whether orders had been issued at the end of March or the beginning of April, 1919, against Dr. Satyapal and Dr. Kitchlew of Amritsar under the Defence of India Act, requiring them to abstain from addressing public meetings and whether these gentlemen had submitted to those orders? (b) If so, what was the reason for deporting these gentlemen on the 10th of April?

XIII—Will the Government be pleased to state if it is a fact that the Government apprehended public excitement at the deportation of Dr. Kitchlew and Dr. Satyapal and for that reason procured the carriage-overbridge with the Military or mounted Police?

XIV—Will the Government be pleased to state if it is a fact that on the morning of the 10th April business in Amritsar was going on as usual till the news of the deportation spread through the city when all shops were suddenly closed in consequence thereof?

XV—Is it a fact that after the shops were closed an unarmed crowd started from the city to go to the house of the Deputy Commissioner to urge the release of the deportees and on the route passed by the National Bank, the Alliance and the Chartered Banks, the Church, the Town Hall and other public buildings without making any attempt at mischief?

XVI.—Is it a fact that the progress of the crowd towards the Deputy Commissioner bungalow was barred by the packet mentioned above, which fired upon the crowd? If so, what was the immediate occasion for the firing?

XVII.—Will the Government be pleased to state—

() the number of times the crowd was fired upon at the foot and carriage overbridge at Amritsar on 10th April?

(1) Is it a fact that no violence against person or property was committed by any section of the crowd till after they had been fired upon?

XVIII.—Will the Government be pleased to state—

(2) whether any proclamation prohibiting meetings under the Seditious Meetings Act was issued on or before the 13th April, 1919 at Amritsar? If so, at what time, in what manner, and in what parts of the city was it published?

(3) If no such proclamation was published, will the Government be pleased to state if there was any prohibition of meetings by any other authority on or before the 13th April and if so, when, under what law, and by whom such prohibition was issued, and in what parts of the city and in what manner it was published?

XIX.—Will the Government be pleased to lay on the table a plan of the Jallianwala Bagh, where a large number of people were shot, while assembled at a meeting, on the 13th April, 1919, drawn to scale, and showing

(a) all the entrances and exits to the Bagh,

(b) the height of the houses and the walls surrounding the Bagh,

(c) the spot where the Military were posted at the time of the firing on the 13th and its height above the ground where the people were assembled,

(d) the position of the armoured car posted in or near the Bagh on that day, and

(e) the position of the audience and their distance from the firing party.

XX.—Will the Government be pleased to state what was the number of persons assembled at the Jallianwala Bagh on the 13th April at the time they were fired upon?

XXI.—Will the Government be pleased to state—

(a) how and when and by whom the meeting at the Jallianwala Bagh held on the 13th April was advertised in the city?

(b) when did the authorities come to know that such meeting was going to be held?

(c) what steps, if any, were taken by the authorities to make it known to the persons assembling that the meeting was prohibited?

(d) when did the people begin to assemble in the said Bagh?

(e) at what time did the proceedings begin and how long did they continue before the arrival of the Military ?

(f) whether there was any reconnoitering by aeroplane over the Jallianwala Bagh at the time the meeting was going on and before the Military arrived ?

(g) What steps, if any were taken by the authorities to disperse the meeting from the time the people began to assemble to the time when the Military arrived ?

(h) At what time did the Military arrive on the scene and how long after did they open fire on the crowd ?

(i) What was the strength of the Military what was their equipment and who were the officers in command ?

(j) Did any and if so which magistrate or other responsible civil officer accompany the Military to the garden or was present there at the time of the firing ?

(k) By whose orders were the military sent there and with what instructions if any ?

(l) Were the people assembled entirely unarmed and were there also a number of children among them ?

(m) Was the order to fire given by any magistrate or did the Military act on their own initiative ?

(n) Did the officer who ordered the firing warn the people assembled and give them time to disperse before giving the order ?

(o) How long did the firing last and how many rounds were fired ? What was the nature of the ammunition used ? What was the total number of bullets actually fired ?

(p) What was the total number of persons (i) killed (ii) wounded who subsequently died and (iii) wounded who recovered, at Jallianwala Bagh together with their names, parentage age residence and other particulars ?

(q) Whether there were any ambulance or first aid arrangements previously made by the authorities for the wounded on the spot ? If not, were any steps taken after the firing for the disposal of the dead bodies and the treatment of the wounded ?

(r) Of the persons wounded at the garden how many were admitted to any hospital ?

(s) Was any order in force at Amritsar on the 13th April last, prohibiting people from leaving the town after 8 p.m. ?

(t) How long after the firing was the Bagh cleared of all corpses and by what agency ?

(vi) Will the Government be pleased to state if some of the bodies of the dead and the wound lying overnight in the garden were mutilated and despoiled of their valuables during the night?

(v) Will the Government be pleased to state whether any boys or children were shot or otherwise killed or injured at the Jallianwala Bagh on the 13th of April, 1919, and if so, will the Government be pleased to give a list of the children, stating their names, ages, etc?

XXII — Will the Government be pleased to state whether there were any casualties among people, who were in the houses or streets in the neighbourhood of the Jallianwala Bagh, when the firing took place there on the 13th of April? If so, will the Government be pleased to state the names, age and other particulars of the sufferers?

XXIII — Will the Government be pleased to state if any steps were taken by the authorities, and if so, when, to ascertain the names and prepare a list of all the persons killed and wounded in the Jallianwala Bagh?

XXIV — Is it a fact that the 13th of April was the Baisakhi festival (New Year's day) on which the biggest *mela* in the province is held at Amritsar, which is attended by thousands of persons from all parts of the province? Will the Government be pleased to state if a large number of such persons from outside were also present in the meeting at the Jallianwala Bagh on that day? If so, what steps were taken and when, to trace out the casualties among them?

XXV — Will the Government be pleased to lay on the table a statement giving the names of persons who were wounded at the Jallianwala Bagh, who have been prosecuted and convicted or discharged, stating in cases of conviction, the offence or offences with which they were charged and the punishments awarded to them?

XXVI — Will the Government be pleased to lay on the table copies of all orders, proclamations, posters, notifications and notices issued —

(a) by the administrators of Martial Law in the Punjab in their respective areas,

(b) by civil authorities in the same areas during the operation of Martial Law, and

(c) by civil authorities after the withdrawal of Martial Law notifying that certain acts by the civil population will be treated as offences, and dealt with by Military Officers?

XXVII — (a) Will the Government be pleased to state if it is a fact that in the lane known as *Doggian l i gali* in the quarters known as *Kauriyan wala Khuh*, where Miss Sherwood was assaulted, every Indian, irrespective of age or position in life, wishing to pass through the lane, was made to crawl on his belly through the whole length of the lane and British soldiers were posted from morning to 8 p. m. to enforce the observance of this order?

(d) Whether as a consequence of the enforcement of this order houses in the lane remained unoccupied for many days?

XXVIII.—Will the Government be pleased to state—

(a) If all the legal practitioners of Amritsar nearly one hundred in number were compulsorily enrolled as special constables, and irrespective of age and physical fitness, were not only made to patrol the city for nearly a month, but also required to walk several times a day to a place outside the city to answer to roll call

(b) Were they allowed to attend to their professional duties during the period?

(c) Is it also a fact that those lawyers were made to fetch and carry tables, chairs, etc. for Europeans?

(d) Is it also a fact that the said lawyers were all summoned and made to stand in rows in front of the flogging stand; and that two persons were actually flogged in their presence?

XXIX.—() Will the Government be pleased to state if it is a fact, that the electric and water supply of the city of Amritsar exclusive of the Civil Lines, was cut off for four or five days, about the 12th of April last?

(b) Is it also a fact that a large number of wells in the city of Amritsar had been closed in recent years, when Mr. King was Deputy Commissioner there?

XXX.—Will the Government be pleased to state—

() If it is a fact, that several very respectable under trial prisoners, including bankers, lawyers and doctors, of Amritsar were hand-cuffed in pairs and confined for several days in an open racket court in April last, at a time when it was hot during the day and cold during the night

(b) Whether they remained so hand-cuffed continuously for all the 24 hours of the day for several days together and whether they had to eat, drink, sleep and attend to the calls of nature while so hand-cuffed in pairs?

(c) Whether the said prisoners were subsequently removed to cells in the forts, and kept there so hand-cuffed? If so what were the dimensions of such cells and the number of prisoners confined in each?

XXI.—Will the Government be pleased to place on the table a plan drawn to scale of the town of Gujranwala and of Ghazak, Bhagawanpura, Dhalla and other neighbouring villages thereof, where bombs were dropped or machine-guns were used showing—

() the situation of the properties to which damage was done by the mob on 14th April last;

(b) houses actually occupied on the 14th and 15th April by the Europeans ; and

(c) the spots where bombs were dropped or to which machine gun fire was directed, indicating in each case whether it was part of a house or other building or on open space?

XXXII —Will the Government be pleased to state—

(a) How many aeroplanes were sent from Lahore to Gujranwala on 14th April, 1919, and by whose order?

(b) How many of these aeroplanes were equipped with machine-guns or armament of other kinds?

(c) How many bombs were dropped from these aeroplanes and how many shots fired from machine or other guns?

(d) What was the total number of casualties due to such bombing or firing, giving the names and other particulars, of the persons wounded or killed?

(e) Whether any bombs were thrown or shots fired from aeroplanes at any place in Gujranwala town or in neighbouring villages on any date after the 14th April? If so, how many and where?

XXXIII —Will the Government be pleased to state the sex, ages, designations and other particulars of Europeans who were in Gujranwala-town at the time of the arrival of the aeroplanes on the 14th April.

XXXIV —Will Government be pleased to state the names and places, if any, in the Gujranwala district other than the town of Gujranwala and its neighbourhood, where any firing was resorted to by the police or the military? If so, will the Government state the nature of arms and ammunition used in each place and the number of casualties with names and other particulars

XXXV —Will the Government be pleased to state—

(a) If it is a fact that on the 15th April last, Col O'Brien, Deputy Commissioner of Gujranawala, with strong body of police and European soldiers and with an armoured car, marched to the house of Lala Melaram, B A, LL B, Pleader, and arrested and hand cuffed him and took him away without allowing him to dress himself or to speak to his family?

(b) Whether the party then met Mr Labh Singh, M A, (Cantab), Barrister at Law, and arrested and hand cuffed him and chained him with Lala Melaram?

(c) Whether the party then proceeded to the houses of twenty other gentlemen, (pleaders, bankers and other respectable citizens) and arrested and hand cuffed and chained them all together?

(d) Whether the persons so arrested and chained together were marched to the city two and two, headed by a Hindu and a Mahomedan to ridicule Hindu and Mahomedan unity as was stated at the time by Col. O'Brien?

(e) Whether under the orders of Col. O'Brien two Municipal Commissioners walked in front of the procession thus formed and pointed to the aeroplanes hovering overhead, kept on shouting to the people to make way for the prisoners on pain of being bombed or shot down?

(f) Whether after being thus paraded through the principal streets of the town, the prisoners were taken to the Railway Station and put into an open coal truck which was guarded by a number of European soldiers with fixed bayonets, and by an armoured engine, with a gun directed towards the prisoners?

(g) Whether the prisoners were not allowed to leave their places even for the purposes of attending to the calls of nature; and whether some gentlemen had to relieve themselves where they were huddled together?

(h) Whether on reaching the Lahore Railway Station, and before being removed to the jail, the prisoners were kept for about ten hours, along with thirty other prisoners, in a room which opened by means of an iron barred and impelled door into another room which was used as latrine?

XXXVI—Will the Government be pleased to state whether a number of pleaders and other respectable citizens in the town of Shekhupura, in the district of Gujranwala, were arrested and treated in a manner similar to that adopted at Gujranwala and were subjected to similar inconveniences and indignities when being taken to Lahore?

XXXVII—Will the Government be pleased to state whether almost the entire population of the town of Shekhupura above the age of 10 years, irrespective of rank or social position, was summoned by Mr. Bosworth Smith I.C.S. Joint Deputy Commissioner and one of the Martial Law Officers, and made to sweep a large open piece of ground?

XXXVIII—Is the Government aware, that a marriage party of certain Mahomedans of village Rajgarh within the Municipal limits of Lahore was arrested, and the members thereof were convicted by Mr. E. A. Penharrow one of the Martial Law Officers at Lahore?

If so, will the Government be pleased to state—

(a) the number of persons tried and convicted;

(b) whether the bridegroom and the Mullah Priest were also among the accused?

(c) the offence for which they were arrested and tried; and

(d) the sentences passed upon each person.

XXXIX—Will the Government be pleased to lay on the table the correspondence which passed between it and the Punjab Government, leading to the declaration of Martial Law in the Punjab?

XL—Will the Government be pleased to state—

(a) the facts and circumstances, which in its opinion constituted a state of open rebellion against the authority of the Government in certain parts of the province of the Punjab, within the meaning of Regulation X of 1804, on the date on which Ordinance I of 1919 was promulgated by the Governor-General, and,

(b) the date or dates, up to which such state of open rebellion continued in each part of the Punjab, to which the said Ordinance had been applied?

XLI—Will the Government be pleased to state—

(a) Whether a number of barristers, pleaders and other respectable persons of Gurdaspur district, where martial law was never proclaimed, were arrested on or about the 2nd May, 1919, brought in hand cuffs to Lahore, confined in the Central Jail there and released at Gurdaspur on the 8th July without trial, after having been kept in solitary cells for most of the period?

(b) If so, will the Government be pleased to give the names and other particulars of the persons arrested, and state the reasons for their arrest and the law under which they were detained in custody without trial for such a long time?

XLII—Is it also a fact, that at the time of the release of the Gurdaspur lawyers referred to in the preceding question, the District Magistrate of Gurdaspur, Mr Harcourt, I.C.S., expressed his regret in open Court, that Government had taken no action against them, and told them that he, however, was taking steps to move the High Court at Lahore to proceed against them under the Legal Practitioners Act?

XLIII—Will the Government be pleased to state—

(a) Whether General Dyer visited Gurdaspur on the 18th April, 1919, and held a Durbar in the Government School Hall, to which lawyers, honorary magistrates, government servants, bankers, traders, *Zaladars*, *Lambardars*, etc., were invited by the Deputy Commissioner?

(b) Was the hall guarded by the military with armoured cars and machine gun?

(c) Did General Dyer address the audience as *Budmashes* and use other insulting language?

XLIV—Did General Dyer address similar remarks to a similar meeting at the town of Batala, in the district of Gurdaspur?

XLV—(a) Is it a fact that Sudar Gaurhar Singh a retired Inspector of Police of Sheikhpura was arrested and sent to the Central Jail at Lahore as a host for his three sons, namely Amar Singh, Moti Singh and Sitkh Singh the last of 16 years, who were wanted by the police but could not be found at the time in the station?

(b) Is it also a fact that though he has been released a report has been made by the executive magistrate regarding forfeiture of his pension?

THE GOVERNMENT.—Will the Government please state—

(a) If it is a fact that the Government proceeded to the town of Hafizabad with a view to the arrest of 121 persons, containing neither the name nor the list of the persons to be arrested and that the said police did not return to the Hafizabad under the said warrant?

(b) Will the Government be pleased to place on the table a statement giving the names and to be published the names of persons so arrested the date of their release and of course to the Government the names of persons for which they were arrested or convicted and the sentence awarded to the convicted?

XLVII—Has the attention of the Government been drawn to a letter published in the *Leader* newspaper of Allahabad dated the 14th August, 1919, and signed Justice D. K. Mahapatra in which the people of Hafizabad were subjected during the last few years in particular that school children and even a few of the officers of the Government were present at a roll call twice a day before a military officer?

XLVIII—Will the Government be pleased to state if it is a fact that certain District Officers of the United Provinces imposed and collected by coercion and threats, large sums of money as fines from several villages and small towns for the alleged misdeeds during the recent disturbances? If so will the Government be pleased to make a detailed statement, showing the amount so collected from each village or town the law under which and the authority under whose orders the money was so collected and the manner in which it was disposed of?

XLIX—Will the Government be pleased to state—

(1) Whether on the 14th April 1919, a bomb was thrown from an aeroplane at the High School Building at Gujranwala, which is situated at a distance of one mile from the buildings against which any offence had been committed and the place where any mob had collected?

(2) Did the bomb hurt and injure the platforms and some of the walls of the premises?

(3) Were over 150 persons present at the time in the building house?

(4) Is it a fact that a bomb was fired from one of the aeroplanes and injured a person who had been on the premises?

L — Will the Government be pleased to state whether Lala Dhanpat Rai, a Pleader of Kasur, aged over 70 years, was arrested on the 15th April, (four days after the riot that took place there), handcuffed and marched to the Railway Station, surrounded by a strong military guard with fixed bayonets, and from there taken to the Lahore Jail, where he was kept for nearly two months and then released without any charge or trial?

LI — Will the Government be pleased to state if amongst others, Maulvi Ghulam Mohi ud Din, Pleader of Kasur (who had last year been publicly rewarded for his services in connection with the war) and Maulvi Abdul Qadir, a Senior Member of Kasur, were arrested and kept in confinement for some weeks in an improvised lock up in the jail as stated above, and then released without any charge or trial?

LII — Will the Government be pleased to state, if it is a fact that three gallows were erected in a public place at Kasur, and were not taken down till after several days? If so, what was the object with which they were so put up?

LIII — Will the Government be pleased to state, if it is a fact that several school boys at Kasur were flogged, and if so, to state their names, ages and other particulars, together with the number of stripes administered in each case and the offence for which the boys were so punished?

LIV — Will the Government be pleased to state, if it is a fact that during the martial law period, permits to travel were refused to several pleaders of Kasur, who had to attend to their cases before ordinary municipal courts at the headquarters of the district, *viz*, Lahore?

LV — Will the Government be pleased to state, if it is a fact that on or about the 1st of May, 1919, practically the whole population of the town of Kasur, was summoned to the Railway Station for the purpose of identification, and that they were made to stand bareheaded, exposed to the sun, for six hours or so? Is it also a fact, that while the male population was thus with drawn from the town, several houses were searched by the military or the police accompanied by the Ward Member, and that in some cases, even the *Zenana* apartments were entered in search of possible hidings?

LVI — Will the Government be pleased to state why, Mr Manohar Lal, M.A., (Cantab), Bar-at-Law, formerly Minto Professor of Economics at the University of Calcutta and now a prominent member of the Lahore Bar and a syndic of the Punjab University, was arrested on the 18th April, 1919, and kept in jail for nearly a month, including one week of solitary confinement?

LVII — Will the Government be pleased to state, if it is a fact that on the date Mr Manoharlal was arrested, his bungalow was locked and sealed by the police and his wife and children turned out and obliged to live in one of the out houses used as servants' quarters, until the bungalow had been searched about a week later?

IVIII.—Will the Government be pleased to state—

(a) Why Rai Sahib Seth Ram Prasad Municipal Commissioner and one of the largest house proprietors and bankers of Lahore was arrested in April last and marched in hand-cuffs to the Central Jail a distance of nearly three miles, kept in solitary confinement and then released without trial after several weeks?

(b) Will the Government be pleased to state the sums subscribed by him and his son towards the war loans and war charities, and other services rendered by him during the war?

LX.—Will the Government be pleased to state if the following incidents connected with the arrests and detention without trial, of Lala Ratanchand, Secretary of the Punjab Provincial Congress Committee and Lala Dhaniram Bhilla, a merchant of Anarkali Lahore are correct? A letter from the Deputy Commissioner of Lahore was received by Lala Ratanchand on the 19th of April asking him to produce his carriage before the Martial Law Officer in-charge of the Transport. Lala Ratanchand immediately wrote in reply that he had never possessed and was not then in possession of any carriage at all. In spite of this on the 20th of April he was sent for by the Deputy Commissioner and asked why he had failed to produce his carriage. Lala Ratanchand explained that he had no carriage at all. After further questions, his statement to this effect was recorded by the Deputy Commissioner and he was allowed to go.

On the evening of the 22nd at about 8.30 p.m. Lala Ratanchand was arrested by a police inspector and taken to the police station, where he was told that the reason for his arrest was his failure to produce a carriage in accordance with the orders of the Deputy Commissioner. On his again representing the facts of the case the police officer had enquiries made from Lala Ratanchand's neighbours and relations, and after having satisfied himself, he released him.

In the afternoon of the 24th April, the Superintendent of Police C. I. D. went to his house with a military guard in motor-car and arrested Lala Ratanchand again and took him to the Delhi Gate Police Station, while he was under high fever. Here, Lala Ratanchand and Lala Dhaniram Das, Valahi High Court and Lala Dhaniram Bhilla, who had also in the meanwhile been arrested, were surrounded by about a hundred European and Indian soldiers with fixed bayonets and made to walk through the city to the Fort a distance of about a mile where they were confined. Here Lala Ratanchand and Lala Dhaniram were kept for fifty days during which there was no statement was ever taken from them nor were they ever told for what offence and under what law they had been arrested and detained.

LX.—Will the Government be pleased to state the circumstances, under which the following persons were arrested and released without trial after being kept in custody for several days—

1. Lala Dhaniram piece-goods merchant, Darya Hatti Lahore

2. Lala Vaid Rāj Sardarilal, Managing-Director, Ayurvedic and Pharmaceutical Company, Ltd., Lahore.

3. Sardar Wadhawa Singh, dealer in perfumes, and jams, Lahore.

4. Lala Amurchand, proprietor, Swadeshi Stores, Anarkali, Lahore

5. Lala Jagannath, Secretary, Arya Samaj, Wachhowali, Lahore.

6. Lala Hiralal Kapur of the *Punjab Samachar*, Lahore

7. Lala Kaluram Kohli, proprietor, Simla Hindu Hotel, Lahore

8. Lala Diwanchand, proprietor, West End House, Lahore, (arrested at his shop at Amritsar).

9. Lala Mohanlal Saraf, Banker, Saha Bazar, Lahore

10. Lala Kishenchand, carpet-merchant, Lahore

11. Lala Sahgram, proprietor, Aror Buns Press, Lahore

12. Lala Rajaram, jeweller, Bazaz Hatta, Lahore

13. Lala Dulatram, goldsmith, Gumti Bazar, Lahore

14. Mistri Karimbaksh, gas contractor, Gumti Bazar, Lahore.

15. Pandit Anarnath Sharma, estate agent, Jauri Mauri, Lahore

16. Lala Chunilal, shopkeeper, Moti Bazar, Lahore

17. Sardar Mohan Singh, hardware merchant, Dabbi Bazar, Lahore

18. Lala Hemraj, banker and landed proprietor, Shahdara.

19. Mian Sardar Mohammed, *alias* Saradara Munshi, Shahdara

20. Mian Siraj Din, Munshi, Shahdara

21. Mian Nurdin, *alias* Madha, Mochi Gate, Lahore

22. Mian Zahur Din, son of Nurdin, house proprietor, Rang Mahal Bazar, Lahore

23. Lala Jagannath, cloth merchant, Bazaz Hatta, Lahore

24. Lala Desraj, stamp vendor and deed writer, Bazaz Hatta, Lahore

25. Lala Mulk Raj, shopkeeper and chaudhri of Gumti Bazar, Lahore

26. Badshah, *bhusawala*, Bhati Gate, Lahore

27. Malha Khan, *alias* Malha, *Halwar*, Delhi Gate, Lahore.

28. Mian Shadi Khan, *lalezar*, Mohalla-Kalal, Lahore

29. Mian Ibrahim Khan, cloth merchant, Lohari Mandi, Lahore.

- 30 Pandit Jaiaram Das, Kucha Kaghuran Machhi Hatta Lahore
- 31 Lala Jaiaram Das Khatri
- 32 Pandit Hukamal son of Pandit Thakur Das, Wachhowali, Lahore
- 33 Lala Beliram of the firm of Ganeshdas Shankerdas, Daraz Hatta Lahore.
- 34 Mian Rajdin umbrella maker Dabbi Bazar Lahore
- 35 Mian Muhammad Hassan son of Shadi Khan *Kalesar* Mohalla Kalal, Lahore
- 36 Mian Jalal Din son of Azizuddin, Shopkeeper Akbari Mandi Lahore
- 37 Swami Sevanand, physician in charge of the Ramkrishna Charitable Dispensary Sutar Mandi, Lahore.
38. Lala Ganeshdas, merchant Daraz Hatta Lahore and
39. Tarachand barber Wachhowali Lahore

LXI—Will the Government be pleased to state if Dr Kedar Nath of Amritsar a retired Civil Surgeon aged 60 years who had been invalided in 1909 on account of heart troubles, was arrested and handcuffed and marched through the streets with 62 other prisoners to the Jail and kept in confinement for a fortnight with two other prisoners, in a cell which was meant for one person only and then released without trial? If so for what offence?

LXII—Will the Government be pleased to state—

(a). If it is a fact, that martial law notices were posted at the houses and shops of a number of people at Lahore with directions that the occupants must guard the posters, and that if they were damaged, torn or disfigured the occupants would be severely punished under Martial Law.

(b) Is it a fact, that mostly the people who had taken part in public movements or had any interest in any of the persons arrested were selected for this form of harassment?

LXIII—Will the Government be pleased to state if it is a fact that even after the arrest of the person at whose house the martial law notices were posted at Lahore martial law authorities continued to post such notices at their houses, making the members of their families responsible for duly exhibiting and protecting them, thus forcing them to keep anxious and continuous personal watch over the said posters?

LXIV—Will the Government be pleased to lay on the table a statement showing the number of persons punished for interfering with the martial law posters, giving in each case the name and parentage etc. of the said persons and the punishment inflicted upon them?

LXV — Will the Government be pleased to state if it is a fact that—(a) the name of the Swatan Dharma College Hostel, Lahore, was not included in the first published list of places at which martial law notices were to be exhibited,

(b) That, notwithstanding this, some posters were put up on the boundary wall of the hostel without intimation to the college authorities or the inmates of the hostel,

(c) That one of the posters was torn by some unknown person whose identity has not yet been discovered and on this all the students in the hostel were called by the martial law authorities and were marched in the sun carrying their bedding on their shoulders to the Fort, a distance of nearly three miles, and interned there in a body,

(d) That the students were not released until the Principal and the President of the Committee of the College gave an undertaking on the following day to the authorities to be personally responsible for the proper exhibition and safety of the notices?

LXVI — Will the Government be pleased to state if it is a fact that—

(a) One morning, during the martial-law period, the Principal of the Dyalsingh College, Lahore, was served with an order of the Administrator of Martial Law, Commanding Lahore Civil Area, to the effect that it had been reported to him that a certain objectionable poster had been found put up on the outer wall of the College premises and had been removed by the police and brought to his notice, and that if the College authorities did not find the writer and report him before 12 noon the same day, drastic measures would be taken against all concerned with the College,

(b) On this, the trustees (Raj Narendran Nath, M.A., once Commissioner of Lahore, Rai Bahadur Sundardas Suri, M.A., and Lala Shiv Dayal, M.A., retired Inspectors of School and Lala Kunwar Sain, M.A., Barrister at-Law and Principal, Law College) and the staff made a careful inquiry and came to the conclusion that none of the students of the College was the writer of the notice,

(c) That meanwhile Col Frank Johnson, the Martial Law Administrator, arrived there in person and it was pointed out to him that there were no signs on the wall at all to indicate that the poster in question had been nailed or posted there. But he replied, pointing his finger to a certain spot on the wall, that he decided that it had been posted at that spot,

(d) That the next day the Principal was sent for at the Martial Law Headquarters and was informed that he must pay a fine of Rs 250 or in default undergo three months' imprisonment and then he was taken in a motor car to the College with two soldiers, with fixed bayonets, and was released on payment of the fine to the latter,

(e) That from that time onwards, the students began to keep careful secret watch all round the extensive college and hostel premises day and night in batches and kept a regular diary,

(f) That after a few weeks' continuous watch and ward the batch of students on guard at the time caught hold of a person red handed trying to put up on the College wall a spurious poster and were about to take him before the martial law authorities when several other persons arrived on the scene and rescued the offender saying that they belonged to the police and would themselves take him before the Martial Law Officers ;

(g) That on this incident being brought to the notice of the martial law authorities by the Principal, the fine which had been previously imposed on him was remitted ?

Will the Government be pleased to give the name and other particulars of the offender and state what action if any has been taken against him ?

LXVII.—Will the Government be pleased to state—

(a) If it is a fact that all the students of the D A V the Dayal Singh and the Medical Colleges at Lahore were required to attend roll-calls before military officers, when they were made to stand in the sun, guarded by the Military with fixed bayonets, and that this process was continued for three weeks, immediately preceding the University Examination.

(b) Is it also a fact, that in the case of the King Edward Medical College, the total distance which the students were made to traverse on foot in the summer heat for attending the roll call, amounted to not less than 16 miles a day ?

(c) Is it a fact, that some students actually fainted while going to attending or returning from such roll-call parades and that thereupon a nearer place was fixed for taking the roll-call ?

LXVIII.—Will the Government be pleased to state, if it is a fact that the principals of certain colleges in Lahore were coerced by the Martial Law Administrator to inflict very severe punishments on a certain percentage of their students, without regard to any evidence of their guilt ? If so, will the Government be pleased to lay on the table all the orders issued by the Martial Law Administrator and all the correspondence relating to this matter between him and the Principals of the said colleges ?

LXIX.—Will the Government be pleased to state how many motor cars, cycles, carriages, bicycles, electric fans lamps and telephones were commandeered from the inhabitants of Lahore and what was the military necessity justifying such a course ?

LXX.—Is it a fact, that most of the Europeans whose motor-cars had been commandeered were supplied by the military authorities with conveyances commandeered from Indian gentlemen ?

LXXI.—a) Will the Government be pleased to give the names and addresses of all the residents and institutions, from whose premises electric fans lights, and phones were removed ?

(d) Have the fans, lights, telephones so commandeered been in all cases returned to their respective owners since the withdrawal of martial law? If not, why?

LXXII —Will the Government be pleased to state if it is a fact, that electric fans and lamps were removed by the martial law authorities from places of worship, like the temples of the Brahmo Samaj and Arya Samaj, thus hurting the feelings of and causing discomfort to the worshippers? And is it a fact that in spite of representations having been made both to military and civil authorities, these fans and lamps have not yet been returned?

LXXIII —Is the Government aware that in some cases tried by martial law officers, specially towards the close of the martial law period, the accused were convicted without the whole of the defence evidence being heard, even though witnesses were present in Court on the ground of want of time, e.g., in the case of Lal Girdasram and Lal Shivarim, Pleaders of Harizabad, in the district of Gujranwala, who were sentenced to two years' rigorous imprisonment each by Mr. Vace, I.C.S.?

LXXIV —Will the Government be pleased to state if it is a fact—

(a) that Ramlok, son of Daulatram, aged 17 years, a student of the Government High School, Lyallpur, was arrested on the 25th April, and having been detained in police custody for 3 weeks was released for want of evidence against him,

(b) that several days after his release, his father Daulatram appeared as a defence witness for one Ramditta and deposed that the police had asked Ram Ditta to turn an approver but he had refused to do so,

(c) That on this, his son Ramlok was re-arrested on the following day and put on his trial for the very same offences, for which he had been arrested and released before,

(d) That the trial of Ramlok was fixed for the 9th and 10th June, but, as martial law was going to be withdrawn at mid-night on the 9th June, the trial was accelerated to the 5th June, without any previous intimation having been given to the accused or to his father, and

(e) That the accused was tried and sentenced to one year and seven months' rigorous imprisonment for offences under Section 147, 426 and 506, Indian Penal Code by Mr. A. L. Hoyle, I.C.S., officer presiding over Summary Courts under Martial Law, without any chance being given to him to produce his defence?

LXXV —Will the Government be pleased to state if it is a fact—(a) that one Bhagwan Singh, a meat-seller of Lyallpur was arrested on the 6th June last and placed before the Martial Law Summary Court on the 7th June, (b) that, on the 7th June, part of the evidence was heard and the case was adjourned, (c) that, as the Martial Law was to be withdrawn at midnight on the 9th June, the case was taken up at 11 o'clock that night, without any opportunity being given to his counsel to be present, and the accused was sentenced to three months' rigorous imprisonment?

LXXVI.—Is the Government aware that in some cases tried by the Martial Law Commissions constituted under Ordinance No. I of 1919 no record of evidence of witnesses either for the prosecution or the defence has at all been made, nor judgments recorded though heavy sentences have been awarded e.g. (a) the case of Crown *versus* Fazla son of Umar Din, Kakami convicted under Section 124 A and sentenced to transportation for life by the Commission presided over by Lt. Col. Irvine on the 26th of April 1919 and (b) trials Nos 20 and 21 of Hansraj and Hariram of Amritsar before the Commission presided over by the Hon. Mr. Justice Leslie Jones, C.J., Judge of the High Court of Judicature at Lahore, convicting the aforesaid persons to 7 years rigorous imprisonment each under Section 412 I.P.C.?

LXXVII.—Is the Government aware that in several cases tried by the Martial Law Commissions constituted under Ordinance No. I of 1919 examination of outside witnesses for the defence was refused except in interrogatories and when in pursuance of this order of the Commission interrogatories were actually put in they were referred by the Commission to the convening authority who disallowed such as he did not think proper without hearing the accused or his counsel in contravention of the provisions of Section 85 (7) of the Indian Army Act?

LXXVIII.—Is the Government aware that in several instances the convening authority refused to issue interrogatories for examination of defence witnesses, unless money was deposited by the accused to defray the expenses thereof.

LXXIX.—(a) Is the Government aware that in the trial known as the Gujranwala Leaders Case held before the Commission presided over by the Hon. Mr. Justice Broadway, a Judge of the High Court of Judicature at Lahore, one of the accused Jagannath who wanted to establish an *alibi* by production of State records and other evidence from Hathuwar was ordered to deposit Rs. 250 before the interrogatories could be issued?

(b) Is the Government also aware that though Jagannath did deposit the above sum and interrogatories were actually issued the learned Commissioners delivered judgment, convicting Jagannath and sentencing him to transportation for life and forfeiture of property without waiting for the return of the interrogatories, in spite of the written and oral protest of his counsel?

LXXX.—Will the Government be pleased to state if it is a fact that in the case known as the Lahore Conspiracy case (King Emperor v. Harkushen Lal etc.) tried by the Commission presided over by the Hon. Mr. Justice Leslie Jones, C.J., though the Public Prosecutor was present throughout the trial to conduct the case on behalf of the Crown, the cross examination of the defence witnesses was conducted by the co-accused themselves and the Public Prosecutor put only half-a-dozen questions to 2 out of more than 600 witnesses examined for the defence, thus depriving the defence of the right of re-examination?

LXXXI—Will the Government be pleased to state,—

(a) Whether it is a fact that the convening authority issued written orders which were exhibited in the court room prohibiting the taking of short hand notes of proceedings before the Commission, even when an undertaking was offered on behalf of the accused that such notes would be used solely for the purposes of the cases and would not be published?

(b) Is it also a fact, that on protest being made by defence counsel that the convening authority had no power to pass such an order, the Commission presided over by the Hon. Mr. Justice Leslie Jones, I C S., expressed its inability to interfere with the order of the convening authority?

LXXXII.—(a) Will the Government be pleased to state the grounds on which the Martial Law Authorities prohibited the entry of counsel from outside the Punjab into the Martial Law area?

(b) Will the Government be pleased to state if Sir Erle Richards, Senior Counsel for the Secretary of State for India, who opposed the application of Ratnchand and Choudhry Bugga for special leave to appeal to the Privy Council, was right in stating that the prohibition was confined to persons coming from Bengal?

(c) Is it a fact that besides Mr Eardley Norton, Mr J N Roy, Mr B Chakravarti, Mr Gregory, Mr Langford James, Mr C R Dass, Mr B C Chatterji of Calcutta Bar, permission to appear before the Martial Law Commission at Lahore was refused to the Hon Pandit Motilal Nehru of the Allahabad High Court, Mr Syed Hasn Imam of the Patna High Court and Sir Chimanlal Setalvad and Mr Azad of the Bombay Bar?

LXXXIII—Is the Government aware that the Administrator of Martial Law at Lyallpur issued an order prohibiting the entry into that district of legal practitioners who ordinarily practise in the districts in the Punjab, other than Lyallpur?

LXXXIV—Is the Government aware (a) that Maulvi Muharram Ali Chishti, a Vakil of the High Court at Lahore, who was unaware of the order referred to in the preceding question, appeared in the last week of May before the Sessions Judge at Lyallpur in an ordinary criminal case (No 116 of 1919), without any objection being raised by any one to his entry in the district, (b) that about a fortnight later, on the 11th June, two days after the Martial Law had been withdrawn from Lyallpur and on the day on which it was to be withdrawn from Lahore, Mr Moharram Ali Chishti was arrested by the Lahore Police and placed before Major Ferrar, one of the Martial Law Officers at Lahore, on the charge of having acted in contravention of the L referred to above, and fined Rs 100

LXXXV —Will the Government be pleased to state (a) the reason why permission to enter the Martial Law area was refused to Mr C F Andrews, who had been appointed as the representative of several leading Indian papers; and (b) why later on, when Mr Andrews was coming to Lahore on his own account, he was taken out of the train at Amritsar Railway Station detained there for several hours and finally sent back out of the province?

LXXXVI —Will the Government be pleased to state:—

(a) If it is a fact that after the declaration of Martial Law at Lahore, no Indian was allowed to travel by train either from or to Lahore without a special permit granted to him by the Martial Law Authorities?

(b) Whether as a matter of fact, such permits were granted to Indians only on the recommendation of a European or Anglo Indian irrespective of his position in life?

LXXXVII —Will the Government be pleased to state if it is a fact that the Hon Khan Bahadur Mian Muhammad Shafi C.I.E. at that time a member of the Viceroy's Legislative Council and President of the High Court Bar Association, Lahore asked for a permit for his agent to enable the latter to travel to his lands in the Montgomery district and that this application was refused?

LXXXVIII —Will the Government be pleased to state if one of the orders issued by the Martial Law Authorities at various places in the Panjab was that every Indian of whatever status in life must *salam* every European? If so, will the Government be pleased to state:—

(a) The areas, in which such orders were issued and enforced?

(b) The number of persons arrested and punished for infringement of such order and

(c) The names, ages and occupations of persons, who were flogged for breach of this order and the number of stripes inflicted in such cases?

LXXXIX —Will the Government be pleased to state, if it is a fact that one Gopaldas, son of Deviditta Mal, caste Aroia, of Akalgarh, who was a telegraph peon at Lyallpur during the Martial Law days, was arrested for not *salaming* a European officer to whom he had gone to deliver a telegram and that he was given five stripes for it in jail, although he protested that he had actually *salamed* the officer and was willing to do so again?

XC —Is it a fact that in some districts in the Panjab, where Martial Law was in force orders were issued that every Indian driving in a carriage or riding a horse must get down when he passed by a European, and further that Indians carrying open umbrellas must close and lower them when they met a European?

XCI —(a) Will the Government be pleased to lay on the table a statement, showing the number, names and other particulars of persons, if any, who have been arrested, detained, tried and punished on the Railway Stations by the Martial Law Officers since the withdrawal of Martial Law from the districts in which those stations are situated?

(b) If so, will the Government be pleased to state what is the nature of the punishment inflicted in each case?

XCII —Will the Government be pleased to state if there is any reason for the continuance of Martial Law on the Railway Stations in the Punjab? Is the Government aware that such continuance of Martial Law exposes Indians to unnecessary humiliations and hardships, and causes needless irritation.

(2) —Viceroy's Speech

In the course of his opening speech at the meeting of the Imperial Legislative Council held on the 31d of September 1919, His Excellency the Viceroy said —

* * * *

Another personality we shall miss is that of Sir C. Sankaran Nair. Sir Sankaran Nair felt it incumbent on himself to resign his office. His reasons for resigning were honourable to himself and I thoroughly appreciated them, but as the relations between colleagues in a Government are necessarily of a private nature I do not propose to discuss them.

* * * *

Since the close of the last session there have been events of a grave character disturbing the peace and tranquillity of this country and I cannot pass them over without mention. Last session certain Hon. Members during the passage of the Rowlatt Bill gave me warnings of an almost minatory character that if that Bill were passed into law there would be agitation of a serious nature. I think Hon. Members will realise that no Government could deviate from a policy which it regarded as essential, on account of any threat of agitation. However there were those who thought that it was necessary to make good this threat and as a consequence, the deplorable events occurred which are to be the subject of an enquiry. It is not my intention to discuss these events but I would point out this, that it is easy to minimise their gravity after the disorders have been put down. No one, who had the responsibility of dealing with them, is likely to forget the issues which they had to face. Murder and arson were committed, telegraph wires were cut, railway lines were torn up, and for some days my only sure communication with the Government of the Punjab was by means of wireless. Ocular proof of the gravity of the situation, with which we were then faced and of the damage done is still manifest in many of the districts which suffered and to any one who would attempt to minimise the trouble I would say go into these districts, and see for yourself the wastages of senseless destruction which are still there. The policy of my Government was clearly set out in our resolution of April 14th. I promised support to the head of each Local Government for such measures as he thought it might be necessary to take and that support was given unwaveringly throughout. No one deplores more than I the need there was for stern action, but the result of our prompt measures was that the disorders were quelled and peace restored. It is my desire now and it is that of His Honour the Lieutenant Governor of the Punjab, to exercise clemency towards the unfortunate, misguided men who were led away by some educated and clever men or men, to use Mr Gandhi's words, to commit outrages. For some time past, Sir Edward MacLagan has been busily engaged in reviewing the sentences passed and in every case possible he has tempered justice with mercy. For those cases which have come before the

Government of India, I have no hesitation in claiming that they received the most careful consideration, and that orders were passed with the greatest possible despatch

“ For some time past my Government has been in correspondence with the Secretary of State upon the question of an enquiry into these disorders. We have both been anxious to settle this question as quickly as possible, but an announcement has been delayed largely by the difficulty of procuring the services of a suitable chairman. It was only on Saturday last that I heard that Lord Hunter had agreed to come to India in that capacity. The Committee is now complete and will consist of the Chairman, Lord Hunter, formerly the Solicitor General for Scotland, and the following members (1) The Hon Mr Justice Rankin, (2) The Hon Mr Rice, (3) Major General Sir George Barrow, (4) Sir Chiman Lal Setalvad and (5) Sahibzada Sultan Ahmad. Their instruction will be to inquire into, and to report to the Governor General in Council, regarding the causes of, and the measures taken to cope with, the recent disorders in Delhi, the Punjab and the Bombay Presidency. The proceedings of the Committee will ordinarily be public, but the Chairman will have authority to direct them to be held *in camera*, when he considers that the public interests so require. It is hoped that the Committee will begin its sessions next month. The members have a difficult task before them and I trust that people of all classes of opinion will do nothing to add to their difficulties by the needless importation of irrelevant or intentionally inflammable material

“ After disorders involving a great upheaval of normal conditions, such an enquiry as I have just announced is one inevitable consequence. The second and no less necessary sequel is the passing of an act indemnifying those officers of the Government, who were called upon to undertake the onerous and ungrateful task of restoring order, and the validating of such acts as the stress of circumstances required. Whatever the findings of the Commission may be, such a measure would be necessary, and in justice to our officers, we are bound to indemnify them at the earliest convenient moment. ”

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(3)—From Proceedings of Meeting held on September 10, 1919

(A).—Questions and Answers

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The Hon'ble Rao Bahadur B. N. Sarma asked :—

4. On what date did Sir Edward MacLagan arrive in India in April and what were the reasons, if any that prevented his taking over charge of the administration of the Punjab at once ? "

The Hon'ble Sir William Vincent replied :—

Sir Edward MacLagan landed at Bombay on 21st April 1919. In view of recent events in the Punjab the Government of India considered it desirable to place him on special duty to assist the Lieutenant-Governor at a time when the burden of administration was peculiarly heavy. This arrangement continued till 26th May 1919, when Sir Michael O'Dwyer's term of office expired in the ordinary course."

* * * *

The Hon'ble Rao Bahadur B. N. Sarma asked :—

10. (1) How many persons were tried in the Punjab by the Special Martial Law tribunals, and how many of them were sentenced (a) to death, (b) to transportation for life, (c) to imprisonment exceeding three years, and (d) to forfeiture of property ?

(2) How many such persons have appealed or applied for mercy and have all such petitions been disposed of by the authorities before the death sentences were executed ?

(3) How many of those sentenced to death have been executed ?

(4) In how many cases of persons convicted by the Martial Law tribunals have () the sentences been reduced and (b) orders of forfeiture of property been cancelled ? "

The Hon'ble Sir William Vincent replied —

(1) 852 persons were tried,

(a) 108 were sentenced to death

(b) 265 to transportation for life

(c) 104 to imprisonment exceeding three years

(d) 356 to forfeiture of property

The Hon'ble Member's attention is drawn to the provisions of Section 121 of the Indian Penal Code under which most of these persons were convicted. The minimum sentence which can be imposed under that section is transportation for life and forfeiture of property

2 All persons sentenced to death submitted petitions to Government, and the petitions of all the 18 persons who have been executed were duly considered before execution. The Government of India are not aware how many petitions have been presented in non capital cases, but all cases have been reviewed by the Local Government whether petitions were presented or not

3. 18 persons have been executed

4 (a) 488 sentences have been reduced

(b) 332 sentences of forfeiture have been remitted and in ten other cases the sentences have not been enforced."

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The Hon'ble Rao Bahadur B. N. Sarma asked —

14. "(a) Was any difference made between the Indian and European edited newspapers of the Punjab regarding the publication of news during the late disturbances and, if so, why? (b) What control, if any, was exercised by the Government of India over the Punjab Government in this matter?"

The Hon'ble Sir William Vincent replied —

"The Government of India are informed that the publication of all news relating to the disorders in the Punjab was subjected to precensorship without any such discrimination as is suggested. The Government of India passed no orders on the subject."

* * * *

The Hon'ble Pandit Madan Mohan Malaviya asked —

40 "Will Government be pleased to lay on the table a statement showing—

(a) the number of persons actually arrested and detained in custody in connection with the recent disturbances in the Punjab, classified according to town or village, and showing the names, parentage, caste, profession and place of residence of the persons arrested or detained,

(b) the number of persons out of the above list who were actually put on trial—

(i) before the Commissions constituted under the Martial Law Ordinance of 1919 promulgated by the Governor-General,

(ii) before the Summary Courts established under the orders of the General Officers Commanding the Lahore and Rawalpindi Divisions,

(iii) before the Area Officers constituted by or in virtue of the powers conferred by the General Officer Commanding the Lahore and Rawalpindi Divisions for offences against the Proclamation issued on the 19th April 1919 (Notification No 10766 of Home Department, Military, dated 21st April 1919),

(iv) before the ordinary Municipal Courts in districts where Martial Law was not declared, and

(v) before the Special Tribunal constituted under the Defence of India Act

(c) the number of persons convicted out of those mentioned above in part (b) and the offence or offences of which they were convicted and the sentences passed in each case ;

(d) the number of persons discharged or acquitted out of those mentioned above in part (b) ;

(e) the number of persons arrested but released without trial ? ”

The Hon'ble Sir William Vincent replied —

() The information is not available

(f) The following are the figures reported. It is possible that some small modifications may be found necessary

(i) 852

(ii) 1437

(iii) 564 (included in (ii))

(iv) 13.

(v) 56.

(c)

(i) 581

(ii) 1179.

(iii) 495 (included in (i))

(iv) 11

(v) 21

(d)

(i) 271

(ii) 258.

(iii) 69 (included in (ii))

(iv) 2

(v) 35.

For details as to sentences and convictions attention is invited to the statements* placed on the table

*Not included in the proceedings published in the Gazette. See *Supplements I and II*

(c) No information is available."

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, with regard to the answer of the Hon'ble Member respecting part (a) of this question, namely, that the information is not available, am I to understand that the number of persons actually arrested and detained in custody in connection with the recent disturbances in the Punjab is not known to the Government ? ”

The Hon'ble Sir William Vincent —“ That is correct. The number of persons arrested is not known to the Government of India. ”

The Hon'ble Pandit Madan Mohan Malaviya —“ May I request that the Government will be pleased to ask for that information and lay it on the table at the next meeting of the Council ? ”

The Hon'ble Sir William Vincent —“ I ask for notice of that question. ”

The Hon'ble Pandit Madan Mohan Malaviya —“ Then my Lord, with regard to part (e) the Hon'ble Member says that no information is available as regards the number of persons arrested but released without trial. Will the Government be pleased to ask for this information also and lay it on the table at the next meeting of the Council ? ”

The Hon'ble Sir William Vincent —“ My Lord, these are really questions more for the local Council than for us, but we have met the Hon'ble Member as far as we have information. If the Hon'ble Member so desires, I will attempt to have the information collected. ”

The Hon'ble Pandit Madan Mohan Malaviya asked —

41 “ Will Government be pleased to lay on the table a statement giving the following particulars regarding all cases tried by the Summary Courts established by the General Officers Commanding the Lahore and Rawalpindi Divisions and also by the Area Officers appointed under Notification No. 10766 of the Home Department, Military, dated 21st April, 1919 —

(a) the total number of cases decided by each of the said Courts and officers from day to day,

(b) the number of cases in which summaries or memoranda of evidence and reasons for findings arrived at were recorded,

(c) the number of cases in which only reasons for findings arrived at were recorded,

(d) the number of cases in which no summary or memorandum of evidence, nor any reasons for the findings arrived at was recorded, and

(e) the number of cases in which the record does not show even the offence charged ? ”

The Hon'ble Sir William Vincent replied —

(a) Attention is invited to the statement placed on the table *

(b) (c) and (d) From the material at present available Government are not in a position to give accurate information on this point.

(e) None "

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord, I beg here also to ask a supplementary question, and I may with Your Lordship's permission say here that the local Council is not sitting and that is why it has become necessary for me to ask so many questions here. With regard to the answer to parts (b) (c) and (d) that from the material at present available Government are not in a position to give accurate information on this point, namely as to the number of cases in which summaries or memoranda of evidence and reasons for findings were recorded, etc. will the Government be pleased to ask for such information and lay it on the table at the next meeting of the Council?

The Hon'ble Sir William Vincent — I will ask for the information but I cannot undertake to lay it on the table at the next meeting of the Council "

The Hon'ble Pandit Madan Mohan Malaviya asked :—

42. Will Government be pleased to lay on the table a statement showing—

(a) the number of applications for copies of judgments and evidence taken and other proceedings of the Summary Courts and of the Courts of the Area Officers in cases arising out of the recent disturbances in the Punjab made on behalf of the persons convicted to the Legal Remembrancer the District Magistrates, Martial Law Administrators and other Civil or Military Authorities

(b) the number of cases in which copies have been supplied; and

(c) the number of cases in which such copies have been refused and the reasons for such refusal? "

The Hon'ble Sir William Vincent replied :—

The Legal Remembrancer to the Punjab Government received some three or four applications for copies of proceedings of the Summary Courts, but as the records of these cases were not in his office, he returned them to the applicants. The information about the other authorities mentioned is not available

The Hon'ble Pandit Madan Mohan Malaviya :— I beg to ask my Lord, if the Legal Remembrancer informed the applicants where they could obtain copies of the judgments? "

The Hon'ble Sir William Vincent — I have no information on the point. The Legal Remembrancer is an officer of the Provincial Government. "

* Not included in the Proceedings published in the Gazette. See Supplement II

The Hon'ble Pandit Madan Mohan Malaviya asked '—

43. “ (a) How many people were (a) killed and (b) wounded by the firing that took place on—

- (i) The Upper Mall, Lahore, on the 10th April,
- (ii) outside the Lohari Gate on the 10th April,
- (iii) in the Hira Mandi Chuk on the 12th April ?

(b) What was the number of persons injured, if any, among the Police and the Military, specifying the nature of their injuries, in the places and on the occasions mentioned above ? ”

The Hon'ble Sir William Vincent replied '—

“ The figures are given below—

(i) *Upper Mall.*

(a) 1 killed.

(b) 7 wounded

(ii) *Lohari Gate.*

(a) 3 killed.

(b) 12 wounded.

(iii) *Hira Mandi*

(a) 2 killed.

(b) 27 wounded

No Military or Police Officer was killed at these places, but in every case there were assaults on Magistrates, on the Police or on the troops ”

The Hon'ble Pandit Madan Mohan Malaviya —“ I beg to ask if the Government will be pleased to state the details of these assaults on Magistrates, Police and the troops ”

The Hon'ble Sir William Vincent —“ The details of these assaults will be placed before the Committee of Inquiry which will be appointed by the Government of India. ”

The Hon'ble Pandit Madan Mohan Malaviya asked —

44. “ Will Government be pleased to lay on the table a statement showing the total number of persons who were (1) killed, or (2) died of wounds, or (3) were wounded but recovered, during the recent disturbances in the Punjab, giving the names, parentage and other particulars, and specifying the place where each person was killed or wounded ?

The Hon'ble Sir William Vincent replied :—

The numbers killed in each district so far as has been ascertained were as follows :—

Lahore	14
Amritsar	301
Gujranwala	17
Gujrat	2
Total	<hr/> 334

Further information is not available."

The Hon'ble Pandit Madan Mohan Malaviya — May I ask if the Government is aware that the popular estimate of the numbers killed at Amritsar is over a thousand ?

The Hon'ble Sir William Vincent — I am aware that exaggerated accounts of the casualties at Amritsar are prevalent. The figures which I have given are those which we have been able to ascertain from the Local Government."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

45 Will Government be pleased to lay on the table lists of persons who after being sentenced by Martial Law Commissioners or other Martial Law Officers in connection with the recent disturbances were—

- (a) executed,
- (b) transported or
- (c) confined in the Lahore Central and Borstal Jails and various District Jails in the Punjab ?

The Hon'ble Sir William Vincent replied —

The figures asked for are given below :

- (a) 18 persons.
- (b) 26
- (c) The number of persons in the Punjab Jails are distributed as under :

Multan District Jail	30
Multan Central Jail	79
Jullundur District Jail	29
Amritsar	1
Ludhiana	15
Lyallpur	50
Ferozepore	41

Campbellpur District Jail	3
Dharnawal Jail	11
Lahore Borstal Jail	189
Lahore Central Jail	503
Gujranwala District Jail	41
Sialkot " " " "	26
Montgomery " "	34
Rawalpindi " "	149
Shahpur " "	4
Delhi " " " "	6
Gurdaspur " " "	18
Total	1,229

The Hon'ble Pandit Madan Mohan Malaviya asked —

46. " Will Government be pleased to give the names, ages, and other particulars of persons, if any, who were flogged on being arrested and subsequently put on their trial in what is known as the Sherwood case of Amritsar ? "

The Hon'ble Sir William Vincent replied —

" Six of the persons accused of the assault on Miss Sherwood were convicted of disorderly conduct while in custody and were sentenced on conviction by a Summary Court to two years' imprisonment and whipping. These offences were entirely separate from the assault on Miss Sherwood. Further details are not available "

The Hon'ble Pandit Madan Mohan Malaviya asked —

47. " (1) Will Government be pleased to state—

(a) the number of persons, if any, who were sent under Martial Law to the Central Jail, Lahore, to be flogged there and were actually flogged,

(b) the authority under whose orders they were so flogged, and

(c) whether there is a record of all such cases of flogging ?

(2) If there is such a record, will Government be pleased to lay it on the table ? "

The Hon'ble Sir William Vincent replied —

" (a) Number of persons actually flogged 58

(b) Authority under whose orders they were flogged—

By Deputy Commissioner, Lahore	7
By Officer Commanding, Lahore Civil Area	31
By First Class Magistrates	12
By Martial Law Commissions	8
Total	58

- (c) There is a record in the Lahore Central Jail but it is not proposed to lay it on the table.

The Hon'ble Pandit Madan Mohan Malaviya — May I ask the reason why?"

The Hon'ble Sir William Vincent — The Government of India do not think that any useful purpose will be served by laying this information on the table."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

48 Will Government be pleased to lay on the table a statement showing—

- (a) the number of persons flogged in connection with the recent disturbances in each town or village within the Martial Law Area in the Punjab, whether —

(1) under Martial Law

(i) on conviction, or

(ii) without conviction; or

- (2) under the ordinary criminal law during the period in which Martial Law was in force

giving names, parentage, age, caste, profession and residence of the persons flogged

- (b) the offence for which each such person was convicted and the name and designation of the officer who passed the order;

(c) the number of stripes inflicted on each such person; and

(d) the name of the locality where the flogging was administered?"

The Hon'ble Sir William Vincent replied :—

The detailed statements already placed on the table give some of the information the Hon'ble Member wants. Further information is not available."

(B).—Resolution re Appointment of Commission to Inquire into Recent Disturbances in the Punjab

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, before the announcement was made by your Excellency on the 3rd instant that a Committee of Inquiry was going to be appointed, I had given notice of the Resolution which stands in my name on the agenda of to day. In view of that announcement, it has become necessary

The Hon'ble Sir George Lowndes —“ My Lord, I rise to a point of order. The rules require that any Member moving a Resolution should move the Resolution first and not make his speech first ”

The President —“ That is so. ”

The Hon'ble Pandit Madan Mohan Malaviya —“ I will follow the technical rule, my Lord, but I thought there was reason in the circumstances of the case to justify a deviation. I will read the Resolution. My Lord, the Resolution of which I have given notice and which stands on the paper runs as follows .

The Hon'ble Sir William Vincent —“ The Hon'ble Member must move his Resolution first ”

The Hon'ble Pandit Madan Mohan Malaviya —“ I understand the meaning of the word ‘ move ’ and the duty that rests upon me in moving the Resolution. I am not bound to use the word ‘ move ’ in moving the Resolution and if Hon'ble Members will have a little patience, I shall show them that I am moving the Resolution. May I proceed now, my Lord ? ”

The President —“ Yes. ”

The Hon'ble Pandit Madan Mohan Malaviya —“ Thank you, my Lord

“ My Lord, the Resolution of which I have given notice and which stands on the agenda runs as follows —

‘ This Council recommends to the Governor General in Council that he should request His Majesty's Government to appoint without further delay a Commission consisting of gentlemen unconnected with the Indian administration to inquire into (a) the causes of the recent disturbances in the Punjab, and (b) the propriety of the measures adopted in dealing with them, and to vest the said Commission with legal authority to annul or modify sentences passed by the Martial Law Commissions or by Magistrates specially empowered to deal summarily with cases alleged to have been connected with the said disturbances

“ My Lord, before placing my reasons for this Resolution before the Council, I should like to refer to the circumstances, to the events, which have happened ”

since notice was given of this Resolution. Those events are very well known to the Council, and they are that on the 3rd of this month your Excellency was pleased to announce that the Government had decided to appoint a Committee of Inquiry to investigate the recent occurrences in the Punjab. It becomes necessary for me, therefore, before formally moving the Resolution

The President :— The Hon'ble Member must understand that he is moving the Resolution. Though he has not used the word move I can only take it that he has moved it."

The Hon'ble Pandit Madan Mohan Malaviya :— Certainly I used the words before formally moving it. This may come at the end of the speech instead of coming at the beginning."

The President — All right the Hon'ble Member must understand that he has moved the Resolution."

The Hon'ble Pandit Madan Mohan Malaviya — Yes, my Lord. Your Excellency was pleased to announce on Saturday—my Lord, if I may say one thing with great respect it is that the rules of Council are meant to enable us to proceed in a reasonable manner and where reason demands that a change should be made, I think I am entitled to place the matter before your Excellency as President of this Council, to consider and rule upon. Now my Lord the Resolution of which I gave notice has become dead dead as Queen Anne, by reason of the fact that on the 3rd instant, your Excellency was pleased to announce that the Government had decided to appoint a Committee of Inquiry to investigate the Punjab affairs. I beg therefore, in view of that fact, to ask for your Excellency's leave to amend the Resolution in the form of which I have given notice to the Legislative Department. It runs, my Lord, as follows — That this Council recommends to the Governor-General in Council, that he should recommend to His Majesty's Secretary of State^b

The Hon'ble Sir William Vincent — My Lord may I rise to a point of order. The Hon'ble Member is now proposing an amendment to a Resolution which he has never moved at least sometimes he says he has moved it, at other times he says he has not. I am entitled to three days' notice of any amendment proposed and I take objection to the amendment."

The Hon'ble Pandit Madan Mohan Malaviya :— Under the rules of this Council as I understand them, when the President of the Council expresses an opinion about a matter of fact, that is loyally accepted by every Member of this Council. Your Excellency having said that I had moved the Resolution which I quite readily accepted, I submit the Hon'ble Member is out of order in saying I had not moved the Resolution

The President :— The point of substance which the Hon'ble Member must take and which the Hon'ble the Home Member has pointed out is that if a copy of an amendment has not been sent to the Secretary at least three clear days before

the date fixed for the discussion of the Resolution, any member may object to the moving of the amendment. That is the point he has taken, the other was, I think, a slap at the Hon'ble Member which perhaps the Hon'ble Member had deserved, perhaps he had not. That is the point which the Hon'ble the Home Member has put before me, and on that point I must rule that the Hon'ble the Home Member has a perfect right to object to the moving of such an amendment. As the Hon'ble Member is aware, this Resolution of his has been before the Council for a large number of days. My speech was made on September the 3rd, just a week ago. If the Hon'ble Member had given notice the day following that he regarded his Resolution as dead, dead as Queen Anne, and that he wished to put in an amended Resolution, then it would have been open to me—and I should have looked upon it favourably—it would have been open to me to allow him to amend or substitute another Resolution. But what did the Hon'ble Member do? At 7-30 last night I received a letter which had been written by him requesting to be allowed to substitute one Resolution for another. I do not think that this is a reasonable notice to give to Hon'ble Members here who have prepared themselves to meet the Resolution of the Hon'ble Member, and therefore I have no choice, as far as I can see, but to say that the Hon'ble Member must comply in this case with the rule, especially in a matter of such paramount importance."

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, I bow to your Excellency's ruling. In so far as the question of notice is concerned, I quite see that the Hon'ble Member can insist on his three days' notice. But, my Lord, if that is the only difficulty, as my object is to get this matter considered by this Council properly, I should request your Excellency to allow me to keep back this matter and allow the Hon'ble Member to have ample notice of this Resolution. I am sorry I could not send notice of this earlier because the matter, as your Excellency has recognised, is of great importance, and I had to consult friends as to what course I should adopt. I came to the conclusion to which I did in consultation with several friends only last evening and took the earliest opportunity to intimate the fact to the Secretary of the Legislative Department. I am not entitled to go on with this matter unless your Excellency should permit me to do so. I therefore put two propositions for your Excellency's consideration. One is, your Excellency may allow me, if the Hon'ble Member waives his objection, to proceed with the matter and dispose of it. The second is, that if that is not to be then as only one part of my Resolution is dead as Queen Anne, and the other parts are not, it will be my duty to proceed to discuss the Resolution. I will take either course. I have no wish to spend one minute more of this Council's time or my time than is necessary. If my Hon'ble friend wants notice, I am willing that this matter should come up after the three days' notice”

The Hon'ble Sir William Vincent —“ May I speak on a point of order?”

The President —“ Yes, on a point of order.”

The Hon'ble Sir William Vincent :— I put it to your Lordship that a Member is not entitled to amend his own Resolution. An amendment must come from somebody else. If the Hon'ble Member seeks to substitute a new Resolution of his own, I am entitled to the full fifteen days' notice "

The President :— I think that is quite clear that if he substitutes one Resolution for another he must give the usual time which is fifteen days' notice. "

The Hon'ble Pandit Madan Mohan Malaviya — My Lord I exactly used the word substitute in the letter which I sent to the Secretary in which I requested that in view of the fact that a Committee had already been appointed to inquire into the measures taken, His Excellency the President might allow me to substitute the amended Resolution in place of the one of which I had given notice. I have complied with that requirement, but of course if your Excellency rules that I should give fifteen days' notice of it, I will, with your Excellency's permission, now give notice of it. I shall wait until fifteen days are over in which case I understand that you Excellency will be pleased to allow me to discuss this substituted Resolution.

The President :— I cannot give the Hon'ble Member any such promise. The Hon'ble Member's Resolution will then have to take its place in the list of Resolutions suggested to this Council. The Hon'ble Member's Resolution has been given special priority in this case and put on the first day devoted to Resolutions, but the Hon'ble Member now wishes not to move that particular Resolution, and his Resolution, if he wishes to substitute another one must take its chance with the other Resolutions "

The Hon'ble Pandit Madan Mohan Malaviya :— In that case, I beg leave to proceed with the Resolution of which I have given notice. My Lord, the reasons which led me to give notice of the Resolution which stands upon the paper it is hardly necessary for me to repeat. The Government, His Majesty's Government and the Government of India, acting together have recognised that the events which have recently taken place in the Punjab have been of so unfortunate and so grave a character that a Committee of Inquiry should be instituted in order to inquire into them. That having been done, my Lord, it becomes unnecessary for me to either go into those unfortunate events or to draw any inferences which should support such a request as is contained in the Resolution. But before proceeding further as it is the first opportunity when this melancholy affair comes up before the Council I wish to say with regard to the occurrences in the Punjab that every one of us, Indians in this Council, and indeed I may say I speak in this matter on behalf of all Indians whether in this Council or outside, deplors the distressing events that took place in the Punjab. My Lord I do not agree with those who think that the Rowlatt Act agitation was responsible for those events. Nor do I agree with those who think that the *Satyagraha* movement was responsible for any evil results. The fact remains undisputed and undisputable

that, the great *Satyagraha* day—the 6th of April, 1919—passed off throughout the country without a single untoward incident. I believe that if some of those who were in power and whose duty it was to keep law and order, had not mis-managed the situation none of the distressing events which we deplore would have occurred. In referring to those events, my object is not to raise a controversy on them, but to express my deep sorrow that they should have happened. I deplore the desecration that was committed on places of worship and the destruction of public buildings. I deplore more deeply the greater desecration which was committed on the living temples of God, on human beings, whether British or Indian, who were destroyed in a fit of fury or without any justification. My Lord, I mourn the death of the seven Europeans who were killed in these disturbances. I grieve for them, as I would grieve for the death of my dearest and nearest. I mourn also the death of those several hundreds of persons—their number has been stated by the Government to day to be more than 300, and it is believed by the public to be more than a thousand,—I grieve for the deaths of those who fell victims to the fury or the indiscretion of those who were charged with suppressing disorder. My Lord, as I have said, it is a sad thing to reflect that any places of worship were desecrated. I am a Hindu, but I never pass by a mosque or a church without paying it that silent reverence which is due to every place of worship. But, my Lord, places of worship are after all made by men, if they are destroyed man can remake them. But a man is a temple created by God, and all of us, men, Governors, Kings and administrators, cannot even if we combined, rebuild one single human temple if it has been destroyed by the hands of man or beast. I am therefore grieved beyond expression to think of the appalling number of deaths which have been caused, but I will say no more about it at present. My object to day is merely to express my sorrow for what has happened. It is not my object to apportion blame, whether one brother was to blame for it or another, it is equally a matter of pain to me. I have not any idea here of apportioning blame or desiring that blame should be fixed upon one rather than upon another. I only refer to these unfortunate events to remind you that very distressing things have happened, and it is right, and the Government have held that it is right that they should be inquired into and their repetition made impossible.

“ My Lord, while referring to these events in the Punjab, I wish also to say that it is a matter of real regret to me that I should have to raise questions relating to them at a time when Sir Edward Maclagan has assumed charge of the Government of the Punjab. His kindly and generous nature has inspired respect for him throughout the province and throughout the country, and the Punjab in its hour of distress honoured him by calling for him as a saviour. It was a cruel fate which kept him from the people of the Punjab and the people of the Punjab from him. It is a real regret to me, entertaining the respect which I do for him, that I should have to raise these questions at a time when he is the responsible head of the Punjab Administration, and my regret is not quite shaken off by the thought that he was not responsible for the events to which attention is to be drawn and which

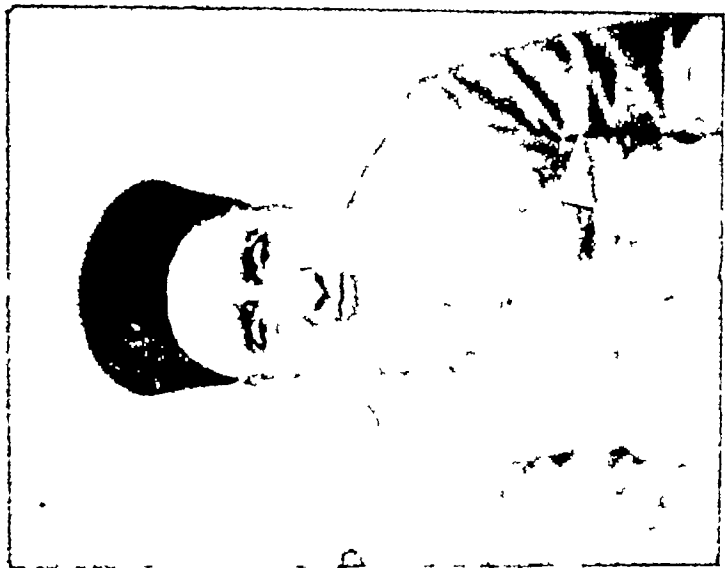
happened at a time when he was not in charge. My Lord, I also want to say that it is far from my object to impute blame wholesale to the members of the Punjab service. On the contrary it gives me pleasure to acknowledge that at a time when some members of that service did commit what the people consider to be great wrongs, there were several members of the same service whom the people esteemed and respected and were grateful to for having kept their heads cool and their districts calm. It is not my object to attack either the Punjab administration or the services as a whole. It is my object as a humble subject of the King and as a humble servant of the people to draw attention to events which require looking into. It is for this reason that, distressed by the delay which was caused in the announcement regarding the appointment of a Committee of Inquiry I gave notice of the Resolution which stands on the paper.

“ My Lord as I have said before it is not necessary for me now to justify the Resolution. The Government have thought it necessary to appoint a Committee of Inquiry. They have considered the situation to be so grave as to call for the appointment of a Committee of a very important character. Lord Hunter is to preside over it several important gentlemen are to be members of it. Why then, it may be asked, is it necessary for me to take up the time of this Council by pressing this Resolution? The reason, my Lord, is this: As the expression of opinions through the press and associations has made it clear the public are disappointed with the constitution of the Committee. Your Excellency must have noted, and other members of the Government must have noted the chorus of dissatisfaction and disappointment with which the announcement has been received by the Indian papers. The *Leader* a leading organ of sound moderate opinion has expressed itself in unequivocal terms. It has said that the Committee will not command confidence. The reasons it has urged are, first of all, that the Indian element on it is very weak. Secondly that the Committee is to report to the Viceroy who has been so much identified with the Punjab policy. And thirdly that the terms of reference do not empower the Committee to go into individual cases. It has concluded by saying. To say that the people will be keenly disappointed with the constitution and terms of reference of the Committee is only to express very mildly the effect they will produce. Similarly the *Bengalee* and other leading organs of public opinion have expressed themselves dissatisfied with the constitution of the Committee and its terms of reference. My object here is not to attack anybody not to impute any motives to any one, not to cast any reflections upon any officer of Government, but humbly to draw attention to the reasons which justify this dissatisfaction and disappointment and which should lead the Government to reconsider the matter.

I will take up the first point with regard to the report being made to the Viceroy. My Lord, I speak with the utmost respect without any desire to say anything personal, and I shall be sorry if any remarks of mine in any way either directly or indirectly indicate any want of respect for the head of the Government or for the Government of India. My Lord, the Committee is to inquire into



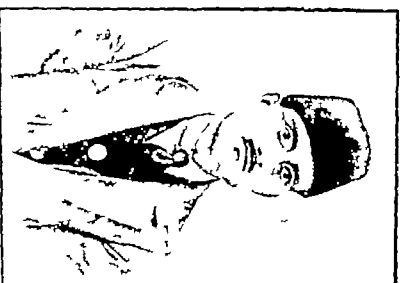
S. Mota Singh (sentenced to transportation for life
with forfeiture of property in the Lahore
conspiracy case)



M. Allah Din (sentenced as S. Mota Singh
in the same case)



Pandit Kotra Mal (Sentenced in the Amritsar Leaders Case)



Mr Alta Muhammad of Lahore (convicted in the firing on the Mall and convicted of waging war against the King)

events which have happened in the Punjab with which the Government of India are closely identified. My Lord, it was the Government of India, or, if you please, the Governor-General in Council, who declared that there was a state of open rebellion in Lahore and Amritsar. That was the starting point of the chapter of troubles. It was the Governor-General who promulgated Martial Law Ordinances. It was the Governor-General in Council who supported and sustained the late Lieutenant Governor of the Punjab, Sir Michael O'Dwyer, in carrying on the martial law administration there. It was the Governor General in Council who accepted the resignation of Sir Sankaran Nair, which as a protest, a most emphatic protest, against martial law

The President —“Order, order. What authority has the Hon'ble Member for making that statement. I told the Council in my speech the other day that Sir Sankaran Nair had not given out publicly his reasons for resigning, and that any communications he had made were entirely private as between colleagues.”

The Hon'ble Pandit Madan Mohan Malaviya —“I beg your Lordship's pardon, my Lord. It has been said in the papers that Sir Sankaran Nair resigned on account of the administration of martial law in the Punjab. If I have erred in saying this, I beg your Excellency to pardon me.

“Now, my Lord, these are facts of such an important character that there is a feeling in the public mind that the Committee of Inquiry ought to report not to the Governor-General in Council, but to His Majesty's Secretary of State for India. I disclaim, my Lord, any idea of suggesting that the Governor-General in Council will not deal fairly and squarely with the Report of the Committee. Personally, I have not the least doubt that every member of the Government will give it his best and most impartial consideration and arrive at conclusions which justice and honour should dictate. But, my Lord, in this matter the Government has to pay heed to the public opinion of the country, and, in view of the events which have happened, the public clearly feel that it would be right, it would be more satisfactory, if the Report went to the Secretary of State for India. This is a view which I consider it my duty to commend to the consideration both of your Excellency's Government and of the Secretary of State. It is not, I repeat, that I make any insinuation or any suggestion, or that I personally have any doubt about how the matter will be dealt with by the Governor-General in Council. But it is my duty to draw attention to the public opinion of the country which is voiced by papers of the standing of the '*Leader*,' and the '*Bengalee*,' as well as other organs of Indian public opinion, all of which want this matter to be re-considered.

“I will now come to the next point by reason of which I consider that this Committee is defective and unsatisfactory, and that is the personnel of the Committee. The Committee consists of six members including the President. Four of these are Europeans and only two are Indians. Now, my Lord, I

would not have raised the question of Indians and Europeans, were it not that the Government have themselves raised it by proposing such a Committee as they have done.

My Lord, it is deplorable that seven European lives were lost, but your Lordship is also aware from the answers given to-day by Hon'ble the Home Member that several hundreds of Indian lives have been lost; and several hundreds of barristers and vakils, merchants and bankers, and other respectable Indians are rotting in the jails of the Punjab, as the list laid before the Council by the Home Member discloses. Several hundreds of Indians have been subjected to indignities which should have been inconceivable. When the Indian members and the Indian public cry for an inquiry into such a state of affairs, one should expect that the Government would appoint a larger number of Indians on the Committee of Inquiry than of non Indians. Instead of doing that, if the Government had put the number even as equal, it would have given more satisfaction. But they have not done this either.

My Lord, here again I do not mean for a moment to insinuate that any member of the Committee will look at these questions from a racial point of view. I personally believe that every one of the members will act honestly and impartially as a gentleman, and I have no fear not the remotest fear in my mind that these gentlemen will not act impartially and justly but how does the constitution of the Committee appear to the general public? Four of its members are Europeans. They ask why should there be four Europeans as members and why only two Indians? Are not Indians more concerned in this matter than Europeans? The matter ought not to be regarded in any racial light, but it ought to be looked at from the point of view of the persons, whose fates are to be tried or whose interests are at stake, who would naturally desire in a matter like this to see that the jury consists of persons in whom they have confidence. The Indian public do not know sufficiently about some of the members who have been appointed on the Committee. They know only of some and by reason of want of knowledge of the qualifications and character of some of the members, they do not feel the same confidence that they would if they had found in the Committee the names of some of those with whom they are acquainted, whom they respect and honour and in whom they have confidence. For this reason, my Lord, the constitution of the Committee is defective, and I certainly say that it would have been wiser on the part of the Government if they had at least made the number of Indian and European members equal. It is even now possible for the Government to equalise the number by appointing a third Indian member. There are a number of gentlemen available in the country both among Indian Judges and Indian public men, any one of whom, who enjoys the confidence of the public, might be appointed without any disadvantage to any interest. My Lord, it is in this respect that the constitution of the Committee is considered to be defective. I will not dwell

upon the personal merits of any individual, as I have said I have absolute confidence that every member of the Committee will look at the questions in a straight way like a gentleman and come to conclusions which truth and justice and honour dictate

“ My Lord, why has the Government appointed this Committee? It has appointed it, in the first place, to redress wrongs which, it must be satisfied, have been inflicted, and, in the second place, to satisfy public opinion which has been outraged by the events which have taken place. Now, if the public is to be satisfied, if that is the object of appointing this Committee of Inquiry, I submit with great respect that the Government would be wise in appointing a third Indian as member of this Committee, and I hope it will

“ My Lord, the third respect in which the Committee is unsatisfactory is that the terms of reference are not sufficient. Your Excellency has seen from the answers given by the Home Member what sad havoc has been played with the liberty and honour of a number of His Majesty's subjects. Now, my Lord, even if their Lordships of the Privy Council hold that there was no justification for introducing martial law in the Punjab, even if they sweep aside all the proceedings of the martial law commissions and martial law officers, what would be the position? They will only deal with the appeals of those individuals who have gone up to the Privy Council, they will not be able to touch the cases of the vast number of men who have not appealed and who probably will not be able to appeal to the Privy Council. My Lord, the Committee of Inquiry will be an executive body, it can only make recommendations. In the Resolution I have suggested the Commission will be vested with legal authority to deal with, to annul or modify sentences. But it is the convictions which have to be set aside. My Lord, I have reflected that this cannot be done by a Commission or Committee unless it is constituted into a Court, for which either this Council should pass an Act constituting it as a judicial tribunal, or Parliament should do so. In the absence of such a constitution of a judicial tribunal, the Commission or Committee can only make recommendations which may be dealt with by the executive Government. Now, the Governor General in Council or the Secretary of State can, as executive officers, wipe out the sentences of any individual, but, my Lord, neither the Secretary of State nor the Governor-General in Council has any authority to set aside any of the convictions, and, my Lord, if the convictions remain, can any of these men be happy to think that the stain of having waged war against the King will remain on their forehead for ever? My Lord, comparatively the sentences do not mean so much. What matters most to every decent citizen, to every loyal subject, to every gentleman, is that his honour should remain stainless, that the stain which has been cast upon his honour shall be completely wiped off. Now, my Lord, as matters stand in the British Empire at present, that

can only be done by His Majesty's Privy Council. I submit, therefore, that the reference to the Committee of Inquiry is insufficient and incomplete and that they should be asked to recommend, if they should think it fit, to His Majesty in Council that the convictions by the martial law commissions and martial law officers and tribunals specially empowered to deal summarily with cases of persons alleged to have been connected with the said disturbances should be annulled. I, therefore,

The Hon'ble Sir William Vincent — May I rise to a point of order? The Hon'ble Member is doing exactly what he said he would not do, that is, moving an amended Resolution."

The President — I should like the Hon'ble Member to show how what he is saying now in the course of his arguments comes within the Resolution which stands on the paper

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord, it will be quite clear in a minute. If the Hon'ble the Home Member had not interrupted me, he would have heard it by this time. My Lord, my Resolution says that —

This Council recommends to the Governor General in Council that he should request His Majesty's Government to appoint without further delay a Commission consisting of gentlemen unconnected with the Indian administration.

To support it I have to show that the Committee of Inquiry which has been announced is defective, and that the terms of reference are insufficient, and I have been endeavouring in my humble way to show it. I am surprised that this should not have been clear to the Hon'ble the Home Member. I will proceed more rapidly because I fear my end is approaching. My Lord, I have drawn attention to three circumstances by reason of which I am not satisfied with the proposed Committee of Inquiry; and by reason of which I humbly urge that this Council should recommend to the Governor-General in Council that he should request His Majesty's Government that a Commission should be appointed by them to investigate the Punjab occurrences, and that the terms of reference should be laid down as I have suggested.

Now my Lord if this is done, what will be the result? The result will be that your Excellency's Government will satisfy Indian public opinion. I assure your Excellency that my countrymen are not unreasonable; my experience, extending over forty years, of public life in this country has convinced me that there has not been one single occasion, when if the Government has been in the right, the people have not recognised that they were right and I believe that in the interests of the good name of the Government, in the interest of justice, in the interests of truth, nothing is more

desirable than that the inquiry which the Government have recognised as necessary should be conducted by men who satisfy public opinion, by men who would inspire confidence in the public mind, and that the terms of reference should be such as would enable the Commission to wipe off any stain which has been cast on those concerned, if they should, after investigating the matter, come to the conclusion that it is right that it should be done and in order that the public feeling should be allayed

“My Lord, it has distressed the people of the Punjab and of India that after the great war, after the loyal services rendered by the people of the Punjab, after the loyal services rendered by India—and we have been repeatedly told that the Punjab has borne the foremost share in the sacrifices made, and that her sacrifices have been appreciated by everybody who knows the fact—it has distressed us all to think that this province should be visited by such a terrible calamity, almost before the war has come to an end. The total number of persons who have been arrested has not been found out by the Government, though several months have passed, yet the number that has been announced by the Hon’ble the Home Member is distressing to think of. I have visited the Lahore Central Jail and the Borstal Jail on three occasions, and I was grieved to find that men, good men, any of whom might get a seat in this Council, men as honourable as any member of this Council, were rotting in those jails for no fault of their own, for no guilt of their own. I feel that this is a situation that calls for the most searching and impartial inquiry—an inquiry that should command complete public confidence, that would silence the tongue of calumny, silence false rumours and establish that Government does not favour anything except truth and justice, establish that the Government are as solicitous for the life and the honour of every single Indian subject of His Majesty, as they are of the life and honour of every European subject of His Majesty. This demands, my Lord, a commission of the character which I have indicated. It is for these reasons that I move this Resolution, being thoroughly dissatisfied with the constitution of the Committee as announced and with its terms of reference. I hope the Government will consider the matter in the light in which I have presented it. I have no wish to embarrass the Government. I tried to modify my Resolution, but I will not speak about it now. I have indicated in my speech measures which might make the Committee satisfactory. I have suggested a modification which will make it unnecessary for the Government entirely to remodel the Committee, by means of a reasonable addition in one respect, and a reasonable extension in another. As this does not evidently commend itself to your Excellency’s Government, I must press for the acceptance of my Resolution that a Commission, not a Committee, should be constituted on the lines I have indicated, with the instructions which I have indicated, including the power to recommend that any conviction might be annulled.”

His Honour the Lieutenant-Governor :— My Lord, I should like with your permission, to make a few remarks before this debate comes to an end.

In considering the steps which have been taken to deal with the recent disturbances, we must, I think, bear in mind the warning which your Excellency gave us at the first meeting of this Session against the tendency now that the disturbances have been quelled, to minimise their gravity. I do not think that even while the disturbances were in progress people in other parts of India fully realised how extremely serious they were, and now that peace has been restored, there are a good many people inside the Province and outside it, who have persuaded themselves that nothing very serious occurred. I have had an opportunity of meeting the chief citizens of two of the towns in which the more serious disturbances occurred. On both occasions, I have had to bring to their memory the gravity of the danger through which they passed. If the disturbances had not been met with the utmost rapidity had they been allowed to proceed a little further than they did the lives and property of all classes, more especially of the trading classes in the central Punjab, and possibly in other areas extending even beyond the Province, would have been in the most imminent danger. The Province has escaped, and very narrowly escaped, a most serious catastrophe.

The Hon'ble Member has spoken a good deal about the sentences passed by martial law commissions. A good deal can be said about them but I shall at present only say a few words in order to dispel any misapprehension there may be about the attitude which the Government has hitherto adopted in the matter. As regards the findings of these commissions, it must be remembered that they represent the opinion, the unanimous opinion, of three experienced officers, who had the accused and the witnesses before them and heard what had to be said on either side. It is only in cases where there is patent and incontestable evidence of error that findings of this kind can be upset by an executive authority and although I have examined many cases, I have not found one in which I felt justified in impugning the substantial accuracy of the findings of the Court.

As regards the sentences I think things are different. The Courts were in a great many cases bound by the law to pass the severest form of sentences. They were influenced in a large number of cases, and I think justifiably influenced, by a sense of the great danger to which the persons before them had so recently exposed the country. It is always open to the Government in such cases to adopt a more extended view and to look upon punishments with regard to their aggregate effect. Where it feels it can reduce the sentences without unduly weakening their deterrent influence, it is justified—and where the numbers concerned are considerable, it is more than justified—in ordering a reduction. The sentences passed on the Ghadr revolutionaries in 1915 were in this way reduced by my distinguished predecessor

and in the case of such recent sentences as came before him before he left the country, he had himself ordered a considerable number of reductions. To what extent and at what time he would have conducted a general review of these sentences, if he had stayed in the country, I cannot say, but I have reason to believe that after a suitable interval had elapsed, a review would have been undertaken by him. I have myself found that it was possible to effect reductions very shortly after quiet was restored, and I recognise that in doing so I have undertaken a considerable risk. The reductions have, however, served to show that the Government in punishing disturbers of order has no desire to be oppressive or vindictive, and they have helped to ease the tension which has inevitably sprung from the events of April last. They have been made in the hope that the old feelings of confidence between the Government and the people which the sudden upheaval of last April had so violently interrupted might be restored, and if in this hope we are, as I trust we shall not be, disappointed, it will not be for want of anxious effort on the part of the Government.

"I would in all earnestness ask the Council to appreciate the attitude, which the Government has adopted. We cannot let past outrages go unpunished, but we are doing what we can to restore good feeling, and to bring things back to normal and peaceful conditions, and the least we can ask from those who have the interests of the country at heart is that they should aid and not impede us in our task."

The Hon'ble Mr W E Crum :—"My Lord, I stand here to day as a representative elected by the Bengal Chamber of Commerce, but in speaking I speak not only for the Chamber but also for the great European community scattered throughout the provinces of India. And what is that community? It is a community as truly of the citizenship of India as any community in India. It has been said that we are simply foreigners who come to India to make what money we can in a few years out of the Indians and then go and spend it in England. My own position, my Lord, I will explain to the Council and ask them to judge. My father lived, worked and died in India. For twenty years I have worked in India. My children have been born in India, and I hope that my sons will come back and work in India. The money that I have inherited and the money which I have earned is all invested in India's trade and commerce, and as long as I live it will be so invested. And my position is simply that of many of the thousands of the European community who are scattered throughout India, and as such we claim citizenship of India and the right of protection. We are as solicitous for the future of India, for her material welfare and prosperity, as any other member of your Excellency's Council. But, my Lord, with regard to what has happened in the Punjab, it is we who are the aggrieved parties. The Hon'ble Pandit has told us, and I believe with all sincerity, how much he regrets the murders, the sacrilege of churches and the

destruction of property which have taken place. But that does not alter the fact that these murders did take place, that churches were burnt, and that property belonging to Europeans was destroyed because it belonged to Europeans. And so, my Lord, we have the right not only to claim the protection of Government for those Europeans scattered all over India, but also must we be given some assurance that occurrences such as have happened in the Punjab will not happen again.

My Lord, the Hon'ble Pandit paid a very just tribute to the good work which Sir Edward MacLagan is now doing in the Punjab. But I consider that India also should be thankful and should pay a tribute to his predecessor Sir Michael O'Dwyer because it was all important for India that at that very serious time she had in the Punjab a man of the courageous fearlessness, of the justice and of the determination of Sir Michael O'Dwyer and on behalf of the European community I wish to thank him for the prompt measures which he took in quelling the disturbances. And, further I wish to thank those officials of the Punjab, both European and Indian, who did their duty and stuck to their posts when circumstances were so much against many of them.

I should like to allude, my Lord to the behaviour of His Majesty's Army in the Punjab.

The Hon'ble Pandit Madan Mohan Malaviya — May I rise to a point of order my Lord? I did not want to go into details regarding the work of His Majesty's forces in the Punjab, and I doubt whether any of the Hon'ble Member's remarks are pertinent here. I have avoided, so far as I could all reference to facts which are to be inquired into by the Committee of Inquiry (Laughter)

The President :— It is impossible for me to hear what the Hon'ble Member is saying if his voice is drowned by laughter."

The Hon'ble Pandit Madan Mohan Malaviya :— A little levity is sometimes unfortunately imported even into the most solemn discussions. I have avoided going into those facts of a cardinal character which would establish whether Sir Michael O'Dwyer was responsible for creating the serious time referred to by the Hon'ble Member or not, and whether His Majesty's forces had done well or not. I have avoided all reference to these details, and I would suggest that Hon'ble Members may discuss the Resolution on the grounds I have put forward. I think it would be unfair to the Committee of Inquiry to prejudge matters which have been referred to them, but I put this before your Excellency so that the blame for importing these matters into the discussion may not rest upon me."

The Hon'ble Mr W E Crum :— My Lord, I think also that the thanks of my community are due to His Majesty's Army in India, both European, Sikh, Muhammadan and Gurkha, who in spite of the greatest provocation behaved with a restraint and discipline which will be a model to the Army in India for ever afterwards.

" Now, my Lord, I cannot help thinking that instead of the Hon'ble Pandit having moved this Resolution that I should have moved it as a member of the European community, and it seems to me that the wording of the Resolution is wrong. The Resolution asks for the annulment and modification of sentences on those who have already been convicted of murder, arson and sacrilege. My Lord, rather surely should the Resolution have asked that reparation should be made for the lives that have been lost and the properties that have been destroyed, and I would ask that in the terms of reference to the Committee of Inquiry which your Lordship has appointed, there should be included the question of reparation for those who have suffered, the question of who is to pay for this reparation, and the question as to how the scattered European community is to be safeguarded in the future. My Lord, I would go further, and ask that as this is a matter which concerns my community so deeply, your Excellency may be pleased to add to this Committee a member of the non official European Community. My Lord, the Committee consists of two eminent Judges, a member of your Excellency's Government, a distinguished soldier and two members of the Indian Community. All that I ask is, that we non official Europeans should also be represented, and since the Hon'ble Mover of the Resolution has asked that the Commission should consist of gentlemen unconnected with the Indian administration, I think that he at least can take no objection to my request "

The Hon'ble Maharaja Sir Manindra Chandra Nandi — " My Lord, I think I would be failing in my duty if I were not to speak a few words in connection with the present Resolution. It is the barest truth to say that the recent happenings in the Punjab have grieved people all over India. The loyal and law abiding section of the Indian Community very much deplores the excesses committed by the mob in this province. But there is also a strong feeling, even among the most considerate and sober minded, that the retribution visited on the people of the Punjab has been unduly severe and indiscriminating. A policy of conciliation and clemency has no doubt been adopted lately, but it has not succeeded in appeasing the public mind altogether. It is a matter of satisfaction that, in response to the public demand for an inquiry, Government have thought fit to appoint a Committee, as was announced by your Excellency the other day. The personnel of the Committee seems, however, to admit of improvement, and I would implore your Excellency's Government to strengthen it by the addition of a few more non-official Indian members possessing public confidence. There is also a general desire that the terms of reference should be more comprehensive, so as to include individual cases. I venture to suggest that the disturbances in Calcutta should be included within the scope of this inquiry "

The Hon'ble Major Malik Sir Umar Hayat Khan — " My Lord, the request for the Commission of Inquiry ought to have come from a Punjabi who knew all that happened in the Province and not from an outsider. We have sufficiently suffered from the help extended to us from other Provinces. Most of the well-wishers and inhabitants of our Province are against the holding of any

inquiry whatsoever as they feel it may pour oil on the fast dwindling fire and even the private inquiry of some gentlemen was resented by the people when some of the newspapers voiced their feelings.

I also hope that the element of the public men from outside would not be further added to the Commission of these inquiries to enhance our troubles. If any other Indian is to be added to meet the wishes of some of the Members, I suggest that he may be a Sikh from Punjab, as most of the disturbances took place in the area mostly inhabited by the Sikhs, and as there was a Hindu and a Mahomedan member already on the Commission, the appointment will be welcomed by that community. The appointment of a Punjabi with the knowledge of the language of the Province, as well as with the first hand knowledge of affairs not dependent on the misleading reports and extremist papers, will be of much value to the Commission. As I had worked throughout the disturbances as well as at the Frontier troubles, I wanted to deal at length about the close connection of the two and the origin and gravity of the situation as well as the minute plans of those who wanted to prove their threats as genuine. I refrain from bringing forward any facts and reserve them for a future date when I hope to review the situation and try to prove what would have been the inevitable result if prompt measures had not immediately been taken."

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The Hon'ble Rao Bahadur B N Sarma — My Lord, your Excellency in your opening speech on the 3rd has rightly given us a warning that nothing that we may do either here or outside should create or embitter the feeling of the various communities in India, and in view of the appointment of the Commission which has been announced by your Excellency I think it would not be pertinent to make any remarks in detail with regard to our views of the occurrences in the Punjab. But I should be failing in my duty if I did not express in the Council the views of a vast majority of my countrymen, educated as well as uneducated, with regard to the happenings in the Punjab in so far as they have a bearing upon the Resolution in question. Every one whom I have heard deploras greatly the excesses of the mob in the Punjab, the violence and distemper exhibited and the disastrous consequences to European life and property and I associate myself with what has been said by the Hon'ble Pandit Malaviya with regard to the keen regret of the country as regards those occurrences. Whether some of the later occurrences, or even all those occurrences were not the result of some of the measures taken either then or a little while previously are questions which will come up before the Committee, and I therefore think it would not be right to express an opinion on that question.

But with regard to the first part of the Resolution raised by my friend there is something to be said and I hope your Excellency will not take us amiss when we express our view that it might have been desirable and even now would be desirable if a Commission from England, consisting it may be exclu-

sively of Englishmen from there, were to inquire into these Punjab occurrences Your Excellency will remember that a large part of the Indian public, while deploring the excesses, doubted and doubts whether the circumstances warranted the declaration of a state of war or open rebellion

“ The question is one which, I think, would have to be inquired into by the Committee and the views of the Government of India and the Resolution of the Government of India may have to be canvassed. We are thankful to your Excellency for taking the initiative and appointing this Committee, showing thereby complete confidence in your own honesty and integrity which nobody has ever doubted. But there are many who have doubted and still doubt on reasonable grounds as to whether the Government has not on one-sided reports been thrown into a state of panic and cast an unmerited slur upon the loyalty of vast sections of people in the Punjab and possibly elsewhere. Therefore, it would have been desirable if a Commission entirely unconnected with India, with fresh minds, had been appointed by His Majesty's Government at Home to inquire into these questions, because the questions relating to the Punjab are not, as my friend the Hon'ble Sir Umar Hayat Khan thought, connected only with the Punjab, but are of an all-India or imperial character. It is with great distress of mind and regret that I have to state that, rightly or wrongly—and I hope sincerely, that the Committee will find that the opinion is wrong—rightly or wrongly, there is an impression abroad that British justice has never sunk so low as during the past few months, and nothing has distressed us so much, because we, who believe in the continuance of the British connection with India, have set great store upon the prestige of the British race, upon their reputation for integrity and for justice, and it has saddened us that that tie was being weakened by the events which took place in the Punjab. It would have been well, therefore, if the Committee had consisted exclusively of Britishers fresh from England, and if the Commission had been appointed by the Government at Home to inquire into these questions and the Report had been made to His Majesty's Secretary of State. However, it may not be too late even now. The Government of India has shown its good faith in starting the inquiry itself, and there would be nothing to prevent them from asking His Majesty's Government to clear the doubts and fears of the Indian people. I was very glad to hear that my friend from Bengal owns his Indian citizenship. Nobody has ever doubted it. Nobody has ever doubted that there are large numbers of Britishers in India who are as proud of being Indian citizens as we are ourselves, and I agree with him that everything that is possible should be done to safeguard their lives and properties, especially as they are scattered all over India. But, my Lord, may I point out to the Council that what the people of India object to is not the swift, speedy, stern punishment of the offenders who are responsible for crimes, but to what they believe to be the use of Prussian methods of terrorism in order to inspire fear in the Indian mind when the European is approached. It is a continuance

of that old spirit which we thought had ended and would end with the war that the Indian people fear so much ; and if the European community does not back up the theories and doctrines supported by some of the Anglo-Indian papers and does not believe in methods of stern vengeance, I am sure everyone will cordially echo what was expressed by my friend the Hon'ble Mr. Cram. It is that question again which is one of the crucial questions which will have to be investigated by this Committee, the question namely not as to whether a few more than the really guilty had suffered or not—in every disturbance of this sort ideal justice cannot be dispensed and in administering speedy justice you must punish the innocent as well as the guilty—but the question is whether the methods that had been adopted were adopted with a view to mete out justice or perpetuate the old pernicious methods of upholding prestige even if terrorism has to be employed. I therefore think that Indian confidence in British justice and integrity might be greatly restored—and that is the real point to be gained now—by the appointment of such a Committee as has been prayed for by my friend the Hon'ble Pandit Madan Mohan Malaviya.

Then, as regards the question as to whether the Committee should be invested with power to annul sentences, there are of course legal and technical difficulties no doubt, but it may be permissible to authorise the Committee to make recommendations in this respect. With due respect I venture to say that we who have been trained in the administration of justice and who have been assisting the administration of justice have looked in vain in what appeared in the newspapers as judgments in these cases, for materials to judge whether these sentences were right or wrong, whether the convictions were right or wrong and in the few cases in which lengthy judgments have been written I may venture to say that they have left majority of lawyers as well as non lawyers unconvinced and they have been forced to the conclusion that it would have been impossible to expect a British Court of Justice to convict men on such flimsy materials as apparently formed the basis of such judgments. I hope the Panjab Government and the Government of India had ampler materials than were furnished to the public, on which they could come to a decision as to whether the convictions were right or wrong. I hope one day the materials will be published and the public will be shown that they were absolutely in the wrong. But, so far as the materials in the hands of the public go I can boldly state that, on the materials furnished and on the judgments, it would be impossible to justify any confidence in the conclusions, I would say of the Hon'ble Judges who tried these cases. I am not going to impute motives. All of us are human ; when we are perturbed by our feelings we are apt to let our judgments mislead and it may be therefore that in the disturbed and angry atmosphere of 1919 the atmosphere was too vitiated to permit correct conclusions.

to be come to But the Government of India have materials, I hope, and, I think, it would not be wrong for us to recommend that this Committee should go into that question and make recommendations not simply as to whether the sentences should be reduced, but as to whether the convictions should be upheld After all the Privy Council may be technical and justice may not be administered I repeat again that the true foundation of the British connection lies in the confidence of the people in British methods, and I hope that in accepting a portion of the Resolution the Government would not be doing wrong in attempting to restore that confidence."

(4)—From Proceedings of Meeting held on September 12, 1919

Debate on Hon'ble Pandit Malaviya's Resolution—*contd*

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The President — The debate will be resumed on the Resolution moved by the Hon'ble Pandit Malaviya "

The Hon'ble Mr Kamini Kumar Chanda :— My Lord, rising to speak on his Resolution at this stage I confess to a feeling of some embarrassment. There is so much to say that I really do not know where to begin, where to end, what to say or how much to say. Now in spite of what has fallen from the lips of my Hon'ble and gallant friend sitting to my right (Hon'ble Sir Umar Hayat Khan) whose authority on military affairs in the Punjab no one for a moment will dispute, I feel constrained to say that one feels that recent happenings in the Punjab have been such as to make it impossible to believe that anything even making a near approach to them could happen under the British administration. I take it, my Lord, that my Hon'ble and gallant friend and gentlemen of his way of thinking believe that there was nothing to complain of about the treatment meted out to the people of the Punjab recently. But my Lord, on the other hand, I do not refer to the communications, the harrowing accounts, which some of us have been receiving first hand from people living in the Punjab. Leave that alone. There is the resignation of Sir Sankaran Nair which the other day the Secretary of State told the House of Commons, as wired by Reuter was due to his views with regard to 'Martial Law in

The President — Order order. I stopped the Hon'ble Pandit when he referred to Sir Sankaran Nair's resignation. There is no official statement to which the Hon'ble Member can refer. The Hon'ble Member must leave the subject."

The Hon'ble Mr Kamini Kumar Chanda :— I bow to your Lordship's decision. I referred only to what was stated by the Secretary of State in Parliament. However that is interpreted by the people differently and simply on that account, apart from other evidence, the people feel distressed about the Punjab. Then, my Lord, when a manly character like Mr C. F. Andrews was denied entry into the Punjab to see with his own eyes the state of things there, you cannot expect that that would have a reassuring effect upon the public mind that everything there would bear open scrutiny. Then there are the proclamations, notifications, ordinances, orders, I do not know by what name they are called, issuing from the martial law administration, some of which have seen the light of day and which fill the mind with amazement mingled with indignation. I am not surprised my Lord, that my Hon'ble and gallant friend, the Hon'ble Major Malik Sir Umar Hayat Khan, Tiwana, not only sees nothing to object about the treatment of the Punjabis under martial law régime, but would resent any

from outside calling attention to what has been described by Sir
 dinath Tagore, the poet and recluse who never mingles in politics,
 felt constrained in his protest against the administration of martial law
 in Punjab to request to be relieved of his knighthood, 'as a degradation
 for human beings' under 'methods of administration without a parallel
 in the history of civilized nations' I say, my Lord, I am not surprised
 at this attitude. The mentality is easily understandable. Then, my Lord,
 on a tenth part of the allegations and suggestions, which the industry
 and devotion of the Hon'ble Pandit has formulated in a string of questions
 of most searching character and which has found its way into the press, bears
 a strong resemblance of truth in them, one would say that he would like to
 say from this land and go into the jungles. I sincerely trust, my Lord, for
 the good name of the Government under which I am proud to live that my
 Hon'ble friend is mistaken. I sincerely trust these charges are untrue, but if true,
 my Lord, would they not constitute a very grave indictment against the adminis-
 tration of Sir Michael O'Dwyer, hardly less grave than the charges that were made
 against Warren Hastings? My Lord, I humbly submit that these things must be
 proved, must be disproved by the findings of an independent tribunal, whose
 verdict will carry universal assent. My Lord, it is hardly necessary to point out
 the words of the Court of Directors of the East India Company that it is not
 enough that justice is done but the people should be made to realise, to feel, that
 justice is being done. The Government of India is responsible for ratifying the
 policy adopted by Sir Michael O'Dwyer, and it is a matter for grave regret that
 the Government do not see its way to have a Royal Commission to investigate
 these charges, a Commission whose verdict, whose decision, would carry infinitely
 more weight than that of any Commission or Committee that may be appointed
 in the country. My Lord, in view of the fact that the policy that will have to
 stand under the scrutiny of the Committee is ultimately the policy of the Govern-
 ment of India, it can hardly be doubted that the finding of the Committee
 in far as it may find in favour of that policy will not carry conviction if it has
 not the sanction of the Government of India. On the other hand, my Lord, I fully
 trust that in view of the fact that your Excellency was pleased to announce the
 appointment of a Committee of Enquiry and the terms of reference to it, it is hardly
 probable that the Government will feel disposed to accept the suggestion of my
 Hon'ble friend to have another Commission.

My Lord, I submit that under these circumstances it is very desirable to
 go *via media*, and a practical solution would be to ask the Committee to
 report not to the Government of India but to the Secretary of State. The
 constitution of the Committee should also be revised. It cannot be denied
 that the composition of the Committee has not evoked much enthusiasm in the
 country among the Indians. Of course, I do not speak about the Anglo-
 Indian press which in this matter does not count. My Hon'ble friend reads
 extracts from the leading organs of what is known as the moderate party, and

even they do not appear to be satisfied with the composition of the Committee. In the first place, the Indian element is hardly adequate. In a matter like this, I submit that the number of Indians should be equal to that of the Europeans. In the next place as regards the personnel of this Committee, we see here as we saw in the case of the recent Reforms Committee that a Moslem member is drawn from one of the Indian States. I do not know if that means the introduction of a new policy. Without making any the slightest reflection in the remotest degree against the gentleman concerned, I submit that it is hardly right and fair to the great Moslem community to go out of British India to the Indian States, to make a selection of a Moslem member. I submit that this is a matter for your Excellency's consideration. I submit that in these circumstances the best thing would be to add another Indian member selected in such a manner as would give satisfaction to the Indian community. I do not know that any better selection could be made than one from the panel which my Hon'ble friend suggested in the revised Resolution which he wished to move but was not allowed to move. Say what you will, it is impossible to deny that the judgments or decisions, call them by the term judgments if you like, of the courts of martial law which was described by Lord Haldane when dealing with applications to grant leave to appeal to the Privy Council from the martial law decisions, 'as a negation of law' have caused deep distress to the public that Indians of the Punjab who are held in high esteem for their character and position are branded as rebels. There may be technical difficulties in the way of a Committee going into these matters, but surely something can be devised if you really wish to bring peace to the land. The Hon'ble Pandit Malaviya suggested that there had been convictions without any record of any summary or any memorandum of evidence, convictions without reasons of decisions, cases without even disclosing the offences, cases taken up at midnight without giving due notice to the accused persons, their relations, friends or lawyers of the change of date, because martial law was going to expire after midnight. In such cases the mind is distressed and unless you find some means by which these cases can be scrutinised, the grievance will remain. I really feel that there can be no real difficulty in finding a means, if you wish it. If you can have an Indemnifying Bill you may as well have some measure which will enable these cases being revised. A simple process would be to vest the Committee with power to investigate the cases, with power to investigate this matter look into the judgments and then report to His Majesty in Council with recommendations for annulment of convictions. We are grateful to your Excellency and to His Honour Sir Edward Maclagan for acts of clemency in the wholesale reductions of sentences ordered. I do not know if the Government have seen an account given by a press correspondent of his interview with Kali Nath Rai after his release from jail. It appears therefrom that these acts of clemency failed to evoke any response in the hearts of the accused persons. It appears almost as a mockery to tell an innocent man that his sentence has been reduced or that he has been pardoned. In these cases what is prayed for is no clemency but justice, no favour but fair treatment. With these humble words, I support the Resolution of my learned friend."

The Hon'ble Sardar Sunder Singh Majithia —“ My Lord, I sincerely deplore the most unfortunate events that have happened in my province, and in view of the Committee of Inquiry that was announced by your Excellency in your Excellency's opening speech this Session on the 3rd September, and which I have no hesitation in saying will be welcomed by my fellow subjects in the Punjab, I think the Resolution of my Hon'ble friend is unnecessary, as the necessity of an inquiry which my Hon'ble friend wanted has already been conceded. I would, however, very strongly urge the addition of a third Indian member, from amongst the public men in India, on this Committee. I hope that if your Excellency's Government were to accede to this request, it will satisfy every body.

“ Your Excellency, as representing His Majesty the King Emperor, is, I think, the right person to whom the report of this Committee should be submitted

“ One point more I would, however, suggest if the enquiry has to serve a useful purpose, and that is, that an assurance should be given to the people who are to give evidence before this Committee that they will be fully protected from every sort of harassment from the underlings of the Police or otherwise

“ The need of an inquiry having been admitted and a Committee having been appointed, I would advise my Hon'ble friend, the mover, if it would not be wise to withdraw his motion ”

The Hon'ble Raja Sir Rampal Singh.—“ My Lord, I think I would be failing in my duty towards my country and its Government if I do not make a few observations in support of the Resolution that was moved by the Hon'ble Pandit Madan Mohan Malaviya. After the announcement made by your Excellency as to the appointment of the Committee and its personnel and the terms of reference, I thought it might not be of much avail to press the Resolution on the attention of the Government. But the exigencies of the situation require that the views of the non official Members of this Council and of those whom they represent, may with advantage be put before the Government, with the object of impressing upon them the desirability of some modification in the constitution of the Committee and their terms of reference in order to restore confidence in the public mind which has got shattered in the sense of justice of the Government

“ With all the precautions that were taken to exclude the public from getting a glimpse of the terrible happenings in the Punjab, the country is full of all sorts of rumours which have created a wide spread dissatisfaction, discontent and resentment. I have no direct knowledge of the disturbances and the manner in which the Punjab authorities quelled them, but the little that I could gather from the papers and other sources is enough to convince me that the stern measures adopted under the plea of restoring law and order were uncalled for, hasty, and out of all proportion to the gravity of the situation. Was the Government justified in declaring a state of open

rebellion in the Punjab, I believe not. At a time when the Government was entangled in the grip of bloody war the Punjab showed by her enormous contributions in men and money her sincere earnestness and loyal devotion to the cause of the Empire. How was it that a few months after the war which had terminated in the much desired victory of the *Sarkar* she got her head turned as to rebel against that very *Sarkar*?

It requires too great a stretch of one's imagination and too great a strain on one's credulousness to believe that a state of open rebellion did exist in the Punjab. However if for argument's sake, it may be admitted that such a state of things did prevail there, was it justifiable for the authorities concerned not to have used proper and wise discretion in the exercise of the unrestricted powers that seem to have been bestowed upon them? The seriousness of the recent Punjab flairs cannot be too highly exaggerated and a patient and impartial inquiry and the redress of the wrongs that might have been done can only clear the atmosphere and restore confidence in British justice. The times are changed. The moral sensibility of India has become very sensitive in sympathy with the modern standard and so any miscarriage of justice or any high handedness creates a feeling of alarm and resentment not only in the locality concerned, but throughout the length and breadth of the country.

Political demonstrations, strikes and passive resistance are matters of common occurrence in modern political warfare in democratic countries. What wonder there is if India, walking on the footsteps of such countries and taking her lessons from the people who rule over her indulges in similar movements. Never in those countries is a state of open rebellion declared, then why should India receive a different treatment at the hands of her Government? I admit the populace of this country is not as disciplined and orderly as of some of the European countries, and sometimes control over the mob is lost and most reprehensible excesses are committed which cannot be too highly deplored and condemned. No sane man can have the least sympathy with the culprits of such excesses. By all means they deserve the severest punishment which the Criminal Law provides. But my Lord to conclude from such excesses that the country is in a state of rebellion is nothing short of libel to the good name, reputation and honour of India. I therefore pray that the Government will be pleased to see their way to modify the constitution of the Committee and the terms of reference in such a manner as to secure the confidence of the country.

"My Lord, we are very keen on an inquiry to be made by an independent and impartial Committee having a sufficient number of Indians on it and commanding the confidence of the public. If the Punjab will be adjudged by such a tribunal to be guilty of rebellion against the Sovereign, I am sure she would willingly do the penances for her misdeeds and the people

outside her limits will only pity her folly. But if the case is otherwise and there were potent provocative causes for the disturbances, the sin of defaming the name of India will fall on those who misled the Government of India into committing this serious blunder."

The Hon'ble Mr K V Rangaswamy Ayyangar — "When I rise to say a few words on this occasion, I am not unmindful of your Excellency's advice not to accentuate the differences between the races by our speeches. Had the Government of the Punjab and the Imperial Government only cared for this principle not to stir up race hatred by unnecessary and unjust acts, there would have been no occasion for such an advice as came from your Excellency at the opening day to the Members here. As if those acts have not already created a feeling of estrangement, our speeches expressing the sentiments of the people are not going to create any new differences. Your Excellency also said on the opening day that the Government cannot deviate from the policy and all our talks and efforts to make the Government deviate from the policy were futile.

The President — "I never said anything of the sort, Mr Ayyangar. Please quote me correctly if you quote me at all."

The Hon'ble Mr K V Rangaswamy Ayyangar — "Then I much regret. It is our duty to voice forth the sentiments of the people, and this makes me bold to say what I feel, and what the country feels, over the Punjab incidents."

"It was on the occasion of the Anniversary of the Durbar Day in 1912, the gravest act of treason was committed by some individual in throwing a bomb at no less a person than that most humane and just ruler Lord Hardinge. The then head of the Government did not commit any hasty action and pronounce martial law at Delhi and sack Delhi. There was even a talk that some military authority approached the Government for a similar proclaiming, but that it was not permitted. Thus the then rulers averted a great calamity that would have befallen India as it happened during recent times.

"Your Excellency had asked us to go and see the spot personally even now. No one denies there were certain rash acts committed by some stray individuals in tearing asunder the railway lines and telegraph wires and burning properties. The loss of innocent European lives is highly regrettable. By all means trace out the culprits and award them due sentences. But how could the British sense of justice suffer to see other than the real culprit pay the penalty? The organisers of the meeting for the repeal of the Rowlatt Act should not have been held responsible for the rash acts of these stray individuals. Could the organisers of the Durbar Day in 1912 be court-martialled for the rash acts of the bomb thrower on Lord Hardinge? Against such an act there have been demonstrations in the whole of India. But in the other parts of the country the authorities acted with calmness.

and prudence while in the Punjab, they immortalised themselves by interpreting constitutional agitation as open rebellion. I have it on the authority of the moderate journal *The Leader* that the Provincial Satrap of the Punjab is said to have declared his intention of taking a note of the Anti-Rowlatt agitation and Passive Resistance demonstration before there was any disturbance of peace. A meeting was held at Amritsar and the two leaders that took part in it were deported under the Regulation III of 1818. At Lahore on the 10th April a small crowd passing through the street in an unoffensive manner was fired upon. Bombs were thrown from aeroplanes. The authorities in the Punjab did not apprehend any rebellion and the martial law was not declared to quell any rebellion but to teach a lesson to the political agitators what it is to mix up with politics. As a matter of fact, I was told by a respectable gentleman that an Englishman who wanted to enter the Punjab and make inquiries for himself was told by a very high authority that the people should be taught a lesson as to how they would fare if they would molest any European. If it is asserted that martial law was introduced only after a serious rioting, it may be pertinently asked whether Martial Law Orders were not issued to the province of Delhi and parts of Bombay also. But for the tactful handling of the situation, Delhi, Bombay and Calcutta also should have fared the fate of the Punjab. What I want to point out is that the Martial Law Orders were passed before there was rioting or rebellion; and without the martial law there would be rest and quiet in the Punjab as in Delhi, Bombay and Calcutta. The measures adopted there are according to the judgments of persons who were in touch with the Punjab and gentlemen who cannot come to false conclusions, grossly illegal, excessive and wrong, and the reports conveyed in the papers about such atrocities as committed at Jallianwala Bagh and other places, fill one's heart with horror and dismay. Other ways of teaching the people to look at a European with awe and respect should be resorted to and the martial law is not at all the weapon for that purpose. The principles laid down for the promulgation of martial law do not at all seem to have been observed. The only principle on which the Law of England tolerates what is called martial law is Necessity. Every bad act in this world is only the result of hasty action; and hasty actions should be questioned by an impartial Tribunal and retribution effected.



The right Honble Lord Sinha says, in the House of Lords, that it was not in the power of the tribunal to sentence these men, save for anything else than transportation for life and forfeiture of property. The Judges and the Tribunals, and the Right Honble gentleman were convinced that the judgment is quite unjustified in the case of *Haril Krishnan Lal*, and a lot of others, but yet they have to plead that it was not in their power to award just and deserving judgments. Why should we drag

in a martial law and place these men for trial under Martial Law Tribunals when the ordinary courts were going, and then plead that it is not in our power to award just judgments? The judgment in the case of Hari Krishnan Lal read together with the Amritsar one forms one of the saddest commentaries on British justice

The Hon'ble Sir William Vincent —“ May I rise to a point of order? Is the Hon'ble Member in order in discussing a judgment which is now pending before the Privy Council ? ”

The President —“ The Hon'ble Member is not in order. If the Hon'ble Member will look at Rule 3 (c) and at Rule 15 he will see that he is not in order in referring to any matter which is under adjudication by a court of law. Therefore he must not mention the matter at all ”

The Hon'ble Mr K V Rangaswamy Ayyangar —“ We want the Committee to inquire whether martial law was necessary and justified, and whether the findings of the Martial Law Courts, the severity and the cruelty of their sentences, were right. And if they were not right, what are the proceedings to be taken against the administrators and promulgators of martial law, and what is the compensation that is to be given to the innocent and injured? Many adult earning members of large families were incapacitated and many died. The Committee should find out whether the shooting of the people was justified before there was any disorder and whether there were any disorders before fire was opened. It is to question the action of the Government of India, the Government of the Punjab, and the administrators of martial law, that we want the Commission of Inquiry. The Commission that we want should be unconnected with the Government of India, and it should be elected by the Non official Members of this Council or nominated by His Majesty's Government. The Committee that has been appointed may carry out the orders, and act up to the terms of reference, of the Government of India. But what we the people of India want is, that an independent Committee should be constituted to find out how the wrongs done to the people may be rectified and compensated, and to devise means how such outrages will not be made possible to be repeated again by an easily excitable authority with an inflammable Press

“ It is unfortunate that of all the Provinces, the Punjab which has supplied so many recruits to the army, and on whose wheat the major portion of the life in the British Empire is sustained, should suffer this monstrous treatment. It was only the other day, in this very Council, that Sir Michael O'Dwyer wasted nearly an hour in praise of his province the Punjab. The latest Administration Report also is very eulogistic of the Punjab services and loyalty. Then as the '*Northern Review*' puts it, either those protestations were reprehensible untruth, or the province was suddenly

converted to a mire of discontent on account of bad rule. Will the Committee be empowered to suggest how the authorities who were the cause of all this discontent, and those of them who were responsible for unnecessary harshness and cruelty and those also who by corrupt practices became rich at the expense of the people, should be punished?

I am bringing to notice that such a thing has happened and I hope that the people will be treated with justice by the Committee of Inquiry."

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The Hon'ble Sir William Vincent — My Lord, I am afraid that the Hon'ble Member has been a little unlucky in his attempt to modify the terms of his Resolution, but if that is so I think that many in this Council will agree that it is largely owing to his own fault. Since the Secretary of State's speech in the House of Commons, most people have been aware of the character of the inquiry which the Government of India proposed into these disorders, and certainly on the 3rd of this month it was quite obvious what the intentions of the Government of India and the Secretary of State were. The Hon'ble Member at that time, although there was sufficient interval between that date and the 10th did not give us any notice of any amended form of Resolution until the very last moment, and it is reasonable to assume or conclude,—and the conclusion is fortified by what I have heard here during this debate—that one of the reasons which led him to this modification of his Resolution was that he could find no support for it in its original form or no adequate support. The Hon'ble Member has evaded the difficulty by some very clever manoeuvring and he really made a speech which covered all the points in the amended Resolution, although nominally moving the original one. But even then, I think the Council will realise that he has got himself into a pretty fair muddle at the end. I have not heard one speech from any Hon'ble Member who has been able to support the Resolution in its entirety in its present form. I have heard various suggestions of different kinds from Hon'ble Members. The Hon'ble and gallant Member Sir Umar Hayat Khan, suggested the addition, I think, of a Punjabi, if any one was added to the Committee. The Hon'ble Mr. Crum said You should add another European to the Committee. Mr. Sarma, who is generally a whole-hearted supporter of the Hon'ble mover said, I really cannot support the last part of this Resolution but other measures to revise sentences should be taken. My Lord, I think it will be obvious to this Council that it is quite impossible for me to announce the decision of Government on any of these new suggestions at a moment's notice. The constitution and terms of reference of this Committee have been settled after very careful consideration and prolonged consultation with the Secretary of State and Hon'ble Members will themselves realise that it is quite impossible for me to answer these questions offhand. What we all want is an impartial inquiry into this matter which will result in the ascertainment of the facts. The Government deploras as much as the

Hon'ble Member does the loss of life that has occurred during these recent disorders. We cannot agree with him, however, that it is a matter of the number so much as of the manner in which and the reasons for which these men and women unfortunately met their death.

The Hon'ble Pandit Madan Mohan Malaviya —“ No ‘women’ ”

The Hon'ble Sir William Vincent —“ But, my Lord, I do think there is some cause for complaint

The Hon'ble Pandit Madan Mohan Malaviya —May I interrupt my Hon'ble friend? The Hon'ble Member said ‘women’, has any woman met her death in these events? ”

The Hon'ble Sir William Vincent —I did not say death, my Lord, or if I did I made a mistake. One woman was however treated with the greatest indignity and left for dead, I do not know if that will satisfy the Hon'ble Member. But what I was trying to say was that, while the Hon'ble Member and others have deplored these dreadful happenings, there has been, in some quarters, a tendency unfairly to minimise them. If I may cite a very prominent example I could not do better than quote the Hon'ble Mr Ayyangar. It is my misfortune, my Lord, that the Hon'ble Member cannot hear what I say, charm I never so wisely, so that if I address myself to this point it is not in the hope of convincing him. But what I take exception to is his minimising of these events and calling them ‘rash acts’. He referred to injuries and the deaths, murders or some words of that kind, of Indians but not one word of what happened to the outrages on those unfortunate Europeans. Now, I have no desire whatever to excite prejudice in this matter, and if other Hon'ble Members had followed the example of the Hon'ble mover it would have been possible for me to avoid reference to details to a great extent. But I do deprecate any such minimising of terrible incidents. We have, for instance, the case of this lady, Miss Sherwood, to whom I referred just now. Now what are the facts in regard to this unfortunate woman? She had worked for years in this country as a doctor, a perfectly inoffensive woman, respected as I understand, by all. She was attacked by a mob of people which knocked her down six times, beat her with shoes, struck her with *lathis* and left her for dead. This is described at a meeting of the All India Home Rule League, of which I believe the Hon'ble mover is a member.

The Hon'ble Pandit Madan Mohan Malaviya —“ I am President of the All-India Congress Committee ”

The Hon'ble Sir William Vincent —“ Am I to understand the Hon'ble Member is not a member of the Home Rule League? However, that outrage was described at a meeting of this body as a petty assault. Now I put it to the Council that that is not a fair description . . . ”

The Hon'ble Pandit Madan Mohan Malaviya — May I know which body described it as a petty assault ? ”

The Hon'ble Sir William Vincent :— My Lord may I be allowed to continue my speech without these constant interruptions ? ”

The President — The Hon'ble Member will have an opportunity of replying later and I think he should allow the Hon'ble the Home Member to continue without interrupting him.

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord may I submit that in Parliament questions are asked as the discussion is going on. These questions cannot be asked at the end of a speech.

The Hon'ble Sir William Vincent — My Lord, may I ask that the time for which the Hon'ble Member inter-upts me may be deducted from the period which I am allowed.

Then, my Lord, there is another class of men who deplore the occurrence—gentlemen, who protest their hero and indignation really as a prelude or as an introduction to deprecating any effective measures being taken to suppress disorders. No attempt, my Lord, was made by gentlemen of this category in any way to stop the false reports about the Rowlatt Act or to quell the disturbances.

But, my Lord, while I mention these men, it would be ungrateful and unfair of me if I were not to refer to the services of other Indians, some of whom are in the Council now. I include my Hon'ble and gallant friend Sir Umar Hayat Khan Tiwana, Saïd Sunder Singh and many other members of the Punjab whom it would be idle for us to mention who not only sought to assist Government in this time of trouble but did everything they could to allay the disorders and further, my Lord, did what was necessary—that which thank God has not been necessary since 1857—to save European lives from murder and outrage at the hands of the natives. To them the thanks of Government, as we said in a Resolution at the time, the greatest thanks of Government are deservedly due. I am anxious, my Lord, not to enter into these matters because I do not seek in any way to prejudice this inquiry. I want, as I have said before, to deal with the proposal which is actually before this Council. There have been modifications of the Resolution suggested on which I can, as I have explained, express no opinion. They are matters on which the collective councils of the Government of India must necessarily be taken, and on which consultation with the Secretary of State will in some cases at least also be necessary. I trust, therefore, that Hon'ble Members will not press me on points which are not directly before them as part of this Resolution. The proposal before Council is in the first place for the appointment of a Royal Commission. May I point out that the only authority which can constitute a Royal Commission is His Majesty's Government. Now His Majesty's Government is,

represented by the Secretary of State so far as India is concerned. The constitution and scope of the present Committee has been settled after prolonged consultation with him and it is, I submit, idle now to ask us, the Government of India having decided the constitution of that Committee, to re open the matter with him. The Secretary of State, who is his Majesty's representative, has accepted our view that the present form of inquiry is adequate. If any motion for a Royal Commission is now to be made, I submit that it should be made in the House of Commons. But, when he was making the motion, although that is part of the Resolution, the Hon'ble Member did not suggest that the inquiry should be by Royal Commission or that the Committee should be so appointed, but he suggested that certain members should be added to it and that the Committee should report direct to the Secretary of State. There are various arguments which will, I think, commend themselves to reasonable members of this Council why the Government of India should only appoint a Committee to report to itself. The Government of India cannot say to a Committee 'you are to report to His Majesty or to the Secretary of State or any authority but itself.' Of course, in the normal course of things, the report of this Committee will be forwarded by the Government of India to the Secretary of State and will be laid undoubtedly in the ultimate resort before His Majesty's Government. But the authority who appoints a Committee of this kind must, according to ordinary procedure, require that Committee to report to itself. There is, however, really a very much larger question of principle involved. The Government of India has certain statutory responsibilities for the peace and good government of this country, and it cannot divest itself of those responsibilities save for very cogent reasons. To do so would be tantamount to an admission that the Government is not competent to fulfil its proper functions, that it is unworthy of the confidence of His Majesty's Government, and that it is unable to discharge its duties towards its own officers. That is a position which, I think, although some members of this Council may wish it, the majority will, I hope, not approve. The idea underlying the proposals is that the Government of India is on its trial. My Lord, that is a position that the Government of India do not and cannot accept. Because certain persons have chosen to promote serious disorders in this country, because certain measures have been taken to quell those disorders, is the Government of India for that reason to divest itself of its responsibilities in a matter of this gravity? There can be only one answer to a question of that kind. It is not reasonable that the Government should be required to take such a course, and if such a proposal is to be made, then the proper place in which to move it is another place.

"There remains this question, the third question, I think, of remission of sentences. My Lord, the sentences have been reviewed with the greatest care by the Local Government, and in many cases by the Government of India, and as admitted by many members of this Council clemency, great clemency, has been shown. It has indeed been alleged in some quarters that the clemency

shown by the Government in this matter is an indication of weakness. That is a proposition which the Government of India do not for a moment support. They recognise that many of the unfortunate men who were concerned in these disorders were the dupes of others; the disorders are now over and the desire of the Government is that normal conditions should return. My Lord I confess that one is not much encouraged in the exercise of clemency by language such as that used by the Hon'ble Mr Chanda, but such language will of course not deter the Government of India from continuing that course which it conceives to be right and just.

The Hon'ble mover suggested that it was necessary that the report so far as sentences are concerned should be laid to His Majesty in Council because otherwise the guilt of these men could not be wiped off; that they could not be purged of the stain that lay on them by reason of the conviction. At least that is what I understood. I think there is some misapprehension on that matter because your Excellency has in this matter delegated to you exactly the same powers of pardon as those which are exercisable by His Majesty. Thus, therefore, is a reason which will not really hold water.

The Hon'ble mover in his opening speech admitted in the most candid manner his full confidence that your Excellency and your Excellency's Government would deal with this matter with justice and integrity. He could say nothing himself against the personnel of the Committee and admitted that it really would deal with the inquiry justly, impartially and fairly. I tried to take the words down and I believe I am substantially correct. Now, my Lord, if that is so, is there any reason for changing the whole of the personnel of this Committee? Is there any reason why, if this Government is, as the Hon'ble mover says, anxious to act with the utmost fairness, why we should divest ourselves of our responsibility in this matter or that the Committee should report direct to His Majesty's Government? The inquiry will, as is already known, be as far as possible public and it is our intention, unless there is some unforeseen reason to the contrary to publish the final report. The personnel of the Committee is such that it must, in spite of what has been said, command very considerable confidence. There are certain additions proposed to which I have already adverted, but to which I can at the present moment make no definite answer. But I want to assure the Council of this, that the desire of the Government is one and one only, that there may be an impartial inquiry into these disorders, that the truth may be ascertained and that what is possible may be done to restore normal conditions, to allay racial feeling and restore the country to peace and quiet."

The Hon'ble Sir Dinshaw Wacha — Your Lordship, in a controversy on a subject of the character which is now under discussion by the Council it is very natural that sentiments, feelings, suspicions, imagination and one thing or another of a kindred character should always be mixed up. It is

quite natural, and it is only human that in such a controversy there shall be extreme views. It is also natural that there should be moderate views as well. Human nature being what it is, I am not at all surprised that one set of controversialists have gone to one extreme and another set of controversialists to another extreme. The pendulum swings from one end to the other. There is no golden mean as it were, where the whole controversy might be balanced, as we could balance a pair of scales, and come to a right judgment on the subject. That being the situation, my Lord, I am very sorry that the controversy has assumed a kind of character here which is undesirable. But I do believe that what the Hon'ble the Home Member who has taken the wind out of my sails in some respects, has already said on the subject I may observe that after what the Hon'ble Sir William Vincent has said on the questions raised by the motion of my friend, Hon'ble Pandit Malaviya, it is very necessary that we should calmly consider the matter and have a balance of mind so adjusted as to arrive at a very correct decision on this Resolution. In this matter, I believe that it is always the case that where passions and prejudices and feelings are excited there is not, what you might call, 'clear thinking'. Clear thinking requires clear grasp of facts, and as far as facts are concerned I find, of course, that facts have been adduced by more than one speaker, which may or may not be right. The merits of the question will be decided by a Committee of Inquiry which has already been appointed. That Committee will really be the tribunal which will go into the correctness of facts, which will inform us exactly what are and what are not facts. Personally, speaking for myself, I am not aware of what the actual facts are and what are not. In Bombay, I read a variety of papers and heard a variety of 'facts' from persons who said they had had facts on first hand information received from people in the Punjab who knew what the course of events was. Still, after all, we, Indians, are the persons who have asked for the inquiry. The Government has rightly responded to the request of the public, and, of course, asked the Secretary of State to appoint a Committee of Inquiry. That Committee has already been appointed. Therefore, the only thing now left to us, is to suspend our judgment and see what the inquiry does, what the facts elicited are, what the situation was like, and await their final conclusions. As far as their judgment is concerned I have certainly no fear on the subject. I have, as my friend Pandit Malaviya has said, firm faith in the integrity and impartiality of the tribunal itself, and I have also large and firm faith in the sense of British justice. British justice may be erratic sometimes, as every human thing is, even the planets and constellations sometimes go out of their orbits. But still, if there is any prestige for the British Government in India, and if there is any love of British institutions, among Indians, it is certainly on account of the stern sense of British justice, and, I repeat, in that justice I have the firmest faith. That being the case, I will only say this. I appeal to my Hon'ble friend, Mr. Malaviya, to withdraw his Resolution, or if he cannot

withdraw it, at any rate let him delete that part of it which goes before and refer only to the request that there may be a third Indian member who commands the confidence of the public. Your Lordship, I may say this that I myself have felt, and so too my numerous friends in Bombay as well as my Association which has sent a telegram on the subject to the Home Member that India would be quite satisfied, (so far as I have read the public papers of all sorts and shades of opinion) if a third Indian member enjoying public confidence is appointed. I appeal to your Lordship to intervene in the matter and request the Secretary of State in response to the prayer of the Indian public to appoint a third Indian member and I think all controversy all animated controversy will be at an end. Everybody will be satisfied that a Committee of Inquiry so constituted as to inspire full confidence, will do full justice to the responsible task entrusted to them. I cannot forget at the same time what my Hon'ble friend Mr Crum said on this subject from his point of view. Europeans have also a large concern in this inquiry. If there is to be a third Indian member why not also have a non-official European member who will represent the non-official European point of view? After all, the Committee, if constituted as now suggested, should inspire confidence, and it is to be hoped that they will come to a right decision. I respectfully request that your Lordship with your great authority will represent to the Secretary of State the feelings of the people on the subject. With these few words I resume my seat."

The Hon'ble Mr Sachchidananda Sinha:— My Lord I desire to assure your Excellency that I have risen to speak on this Resolution with a sense of very great responsibility. I have had the privilege of addressing Viceroy in this Council on many previous occasions, but never have I addressed the Council on an occasion like this. I realise that feelings have been naturally roused on both sides, which have to some extent found expression in the Council. Far be it from me to say one word that would add to the tension of these feelings on either side, but I hope the few temperate observations I propose to make may be of some use in persuading your Lordship's Government to accept the very reasonable proposal that we have made jointly before the Council. Much has been said by previous speakers to represent the Indian point of view in regard to the situation in the Punjab, and the Hon'ble Mr Crum has represented to your Lordship the view which our European fellow subjects have taken in this matter. I would like to give the Hon'ble the Home Member and the Hon'ble Mr Crum the assurance that I am not one of those who either minimise the gravity of the situation in the Punjab, or say a few words of sympathy by way of a prelude to making further demands. On the contrary I frankly confess that I am ashamed of the doings of such of my countrymen in the Punjab as had any hand in killing Europeans, or in injuring them or destroying their property for they had not only harmed Europeans, but injured us also in the matter of our demands for the rights and privileges that we legitimately claim as British subjects in this

country We are all against mob rule. I, therefore, claim that I am not at all minimising the gravity of the situation In fact, I go further. I heard with surprise the Hon'ble Mr Crum say that because a few Europeans had suffered or lost their lives, therefore he felt that he and the Europeans were the aggrieved party

"I venture to say that it seems to me to be putting the case at rather a low level Whether the people who lost their lives, through the action of the mob, be Europeans or Indians, so long as they are our fellow subjects, of whatever nationality, all British subjects are the aggrieved party I claim that I feel it as much as the Hon'ble Mr Crum that my European fellow-subjects should have lost their lives through the action of the mob At the same time, while candidly admitting that, I would like to lay before your Lordship the Indian point of view To put it in a short sentence the Indian point of view is this that although the Government were fully justified in resorting to all effective measures for the purpose of re-establishing law and order, their action went far beyond the requirements of the case In fact, in the name of law and order things were perpetrated which cannot be justified in the light of that high standard of British justice with which we have been long associated in this country That, in short, is our point of view If your Lordship will permit me, I will read out a sentence from a well-known Anglo-Indian paper, the '*Madras Mail*,' Coming from an adversary, its admission is very valuable It says in its leading article in a recent issue —

'We are quite convinced that Indian sentiment has been genuinely and deeply stirred by the events in the Punjab, and that, however much capital may be made out of that affair by factious individuals ever on the lookout to vilify the *British Raj*, there is a substantial body of loyal and moderate opinion which has been shocked by what it regards as an outrage upon Indian fellow-countrymen'

"My Lord, I submit that in this one short sentence the leading Anglo-Indian paper of Madras summarises and sums up correctly the Indian point of view My Lord, it is very desirable, therefore, that the Committee which has been constituted should be one which will be able to inspire confidence in the public mind I do not wish to take up the time of the Council in discussing whether it would have been of greater advantage if this Committee had been a Royal Commission, reporting to His Majesty's Government through the Secretary of State, but I desire to say that in asking for the Royal Commission there is no such feeling as the Hon'ble the Home Member spoke of, namely, that we desire to place the Government of India on their trial The Hon'ble the Home Member shakes his hand to imply that he refuses to accept my statement, I can assure him . . .

The Hon'ble Sir William Vincent — That was not intended "

The Hon'ble Mr Sachchidananda Sinha — I can assure him speaking with the full weight of responsibility that it is far from our desire to place the Government of India on their trial. I remember my late lamented leader Mr Gokhale declare on a memorable occasion in this Council that he could not defeat the Government if he would but that he would not defeat the Government if he could, as the prestige of the Government of India was as such a valuable asset to our progress. For similar reasons we do not desire to place the Government of India on their trial. But the real point is this. The Government of India are believed to have been associated too closely with the policy pursued in the Punjab by Sir Michael O'Dwyer. I hope I shall quote your Lordship correctly and shall not make the mistake as the Hon'ble Mr Ayyangar did. Your Excellency said in your opening address on the 3rd of this month — I promised support to the head of each Local Government for such measures as he thought it might be necessary to take, and that support was given unwaveringly throughout. Now I am far from suggesting that your Lordship was not justified in taking the line of action you did. I am fully aware of the fact that your Lordship appreciates and realises your responsibilities in this grave matter. I merely submit that the people naturally believe that when that was the view of the Government of India, and they took such action as they did in pursuance of it the people are not wrong in assuming that the Government of India were too closely associated and identified with the policy pursued in the Punjab. And the reason why we press for a Royal Commission is, that we believe that all human beings, however exalted their position, are liable to be influenced in their action and judgment by an inherent unconscious bias. When the Government of India have admittedly made themselves responsible for the policy of the Punjab Government, we believe that your Lordship's Government will not be in so good a position, for appreciating the evidence and of passing judgment in the matter as another independent body would be. However the Hon'ble the Home Member says that it is too late now to bring up the proposal and it could only be done in the House of Commons. I do not think I personally can bring it up in the House of Commons, and there is not time enough for us to get it done, as the Committee will be coming out soon. That is why we are concentrating our efforts and pressing for an additional Indian member on the Committee. In spite of what the Hon'ble the Home Member said, it is a fact that the Committee at present constituted, does not find favour with the bulk of the people. I am sorry to say

The Hon'ble Sir William Vincent — The Hon'ble Member is wrong

The Hon'ble Mr Sachchidananda Sinha — I can assure your Lordship that so far as Indian public opinion has found expression in the press, the constitution of the Committee has been found to be wholly unsatisfactory and I find that the *Times of India*, which says that the constitution of the

Committee should satisfy all reasonable persons, goes on in the next breath to say that it would like one more member on it. That is a sample of the reasonableness of persons who say in one breath that they accept the constitution of the Committee and in the next that they would like to have one more. That shows that all parties in this country are more or less dissatisfied with the constitution of the Committee. Now I am not going to make any personal observations about the personnel of the Committee, but I would point out that out of the six members of the Committee no less, my Lord, than five are officials Indian or European, and I believe that there is only one non official—Sir Chimanlal Setalvad. It is not a matter of race or nationality, but I maintain that when there are no less than five officials and but one non official on the Committee it is bound to hold very little favour with the public. I, therefore, submit that on this particular matter, the members of this Council who have spoken so far—the Hon'ble Sir Dinshaw Wacha, the Hon'ble the Raja Sahib of Kanika, the Hon'ble Sardar Sundar Singh Majithra and others—all agree that your Lordship should move in the matter and give us at least one more non official Indian member to satisfy the public demand. Speaking for myself, if your Lordship's Government thinks that there should be added to the Committee a non official European member also, as the Hon'ble Mr Crum suggested I have no objection to it. I venture to hope, my Lord, that in the few observations I have made, I have said nothing to rouse feelings on either side, and that they will, therefore, carry weight with your Lordship's Government. I hope that they will be pleased to consider sympathetically the proposal in regard, at any rate, to adding one more non-official Indian member to this Committee. If that is done, I think the Committee's Report may satisfy the public in a larger measure and carry more weight than it otherwise would.

The Hon'ble Mr N F Paton —“ My Lord, as the Hon'ble the Home Member has said, the object of this Commission is to arrive at the truth in regard to the very deplorable occurrences that took place in the Punjab, and I think that if the widest satisfaction is to be got from the findings of this Commission, it is necessary that the greatest possible confidence should be reposed in it from the start.

“On behalf of the non official European community, I beg your Excellency's Government to consider the suggestion made by my Hon'ble friend Sir Dinshaw Wacha and by the Hon'ble Mr Sinha, that there should be nominated on this Committee not only another Indian representative but a representative of the non official European community as well.”

The Hon'ble Pandit Madan Mohan Malaviya —‘ My Lord, I am indebted to your Lordship for many things and have to thank you for many kind acts. But throughout the period during which I have had the privilege of being known to you, I have never had occasion to be more thankful to you

than when you did not allow me to substitute the Resolution which I wanted to substitute for the one that stands on the paper. My Lord, Simla is one of the worst places that could be selected by the Government of India for its headquarters. Matters of the gravest importance are being dealt with by the Government of India, and we are so far removed from the places where the millions dwell that it is practically impossible for any man like me to know what the currents of public opinion in the country are until perhaps it becomes too late. I gave notice of my intention to substitute a Resolution which your Lordship very kindly disallowed because in the solitude of Simla and with such support as I could find here I thought it was best in the circumstances of the situation to substitute the Resolution which I intended to substitute for the one which is on the paper. But from the communications which I have now received from my friends in the country and from the comments which have been published in the press, I find that had I done so I should have exposed myself to their condemnation because my Lord, there is one strong chorus of disapproval of the constitution of the proposed Committee and there is one strong desire that not a Committee, but a Commission should be appointed to inquire into the occurrences in the Punjab. When a gentleman of the position, the weight and experience of Sir Narayan Chandra Varma once a Chief Justice of Bombay and of Indore, a gentleman known for his moderate views, also says that a Royal Commission should be appointed when he too expresses dissatisfaction with the constitution of the Committee which has been announced I submit, my Lord that a strong case is made out for a re-consideration of the matter. The press, the Indian press, is almost unanimous in expressing its disapproval of the constitution of the Committee. I do not wish to take up the time of the Council by reading many opinions, because I have to say much. I would invite your Lordship's attention and the attention of the Government, to what the *Tribune*, the *Bengalee*, the *Bombay Chronicle*, the *Hindu*, the *Independent*, the *Leader* and several other papers have said. That being so, my Lord, I find that I was mistaken in trying to substitute the Resolution which I wanted to substitute for the one before the Council. I am thankful also to find that I was mistaken, because the Hon'ble the Home Member said in one of his answers yesterday that the Government of India is going to appoint a Committee, and I take it therefore that the Committee has not yet been appointed, and that this is just the time when my Resolution should come up before your Excellency's Government for reconsideration.

Now my Lord, before proceeding further I wish to say that the subject matter of my Resolution requires calm consideration, and I wish every one will approach it in a solemn spirit of responsibility. The matter is too sacred, far too serious, to permit of any party or racial considerations to be brought in. And here I may say once more that there is no man living

who can feel more deeply sorry than I do for the loss of Mr Stewart of the National Bank at Amritsar and of other Europeans who were killed there. In talking about the unhappy incidents of Amritsar to friends in Bombay, Poona and Calcutta, I have everywhere expressed deep sorrow that a gentle man so popular as Mr Stewart was in Amritsar should have been laid low by the hand of some person in a fit of wickedness. My Lord, six other Europeans lost their lives in these disturbances, and I grieve for every one of them. I should be ashamed, I should not be worthy of my religion, if I made any distinction between a European and an Indian where human life was concerned. When the Hon'ble the Home Member referred to the case of Miss Sherwood, he forgot that there were many of us Indians who felt the same grief at the ill-treatment offered to her, as we would have felt if similar ill-treatment had been offered to our own dear sister or mother. But that should not lead any one of us to overlook or minimise the wrongs done to Indians. I ask every Anglo Indian friend. I ask every Anglo Indian brother and sister to approach the question in a solemn spirit, and I am sure that when the facts are known, there will not be a single Anglo Indian man or woman in India, may I go further and say, there will not be a man or woman in the British Empire, who will not feel sorry for the things which have happened and who would not be in sympathy with the object of my Resolution and the proposals which I lay before Government. My Lord, I had no wish to enter here into the details of the harrowing tale of what has happened. I little expected that the Hon'ble the Home Member, himself a previous Judge of the High Court, would import into the discussion of my Resolution irrelevant matters of detail which I had clearly stated ought to be kept out of it.

"I had said that I would not go into details, because the Government of India recognised the need and importance of an inquiry. But the speech which the Home Member has made compels me, in order that nobody should be under a misapprehension, to tell your Lordship and this Council, and through this Council the country and the Empire, that at least 300 and odd human lives were destroyed in the Jallianwala Bagh, under circumstances which will not bear examination when the facts are known. I hold in my hand letters telling me of the deaths of numerous boys who had gone to the Jallianwala Bagh. One of these boys was Abdul Karim, aged 16 years, who passed the last matriculation examination in the first division, the result of which was published after the boy died. He was shot in three places, on his thigh, his chest and his head and expired instantaneously there. I hold in my hand a photograph of another boy named Madan Mohan, aged 13, son of Dr Mani Ram Dentist, who was shot in the head and died instantaneously. My Lord, let me read this letter from the bereaved father which he addressed to the Health Officer Amritsar. He says —

"As desired in the official notification, I give below a brief account of the tragic death of my son Madan Mohan which occurred in

Jallianwala Bagh on 13th April last. The delay in submitting this information is due to my absence from Amritsar to Mussoorie hills.

Jallianwala Bagh is at a distance of about 3 minutes walk and is the only open place near my house which is opposite to Clock Tower. My son Madan Mohan aged about 13 years (born on 27th Baisakh 1962), along with his playmates used to visit this open square for play almost daily. On 13th April last he went there as usual and met his tragic end, having been shot on the head which fractured his skull, he bled and died instantaneously. I with eight or nine others had to search for about half an hour till I could pick up his corpse as it was mixed up with hundred of dead bodies lying in heaps there, who met their expectable end under circumstances well known. This is how my innocent child and innocent age was murdered by those who allege they acted in the name of Justice Law and Order but behaved in a grossly un-British manner.

My Lord, I could mention many other equally distressing cases. I have been twice to the Jallianwala Bagh. The walls around it still speak of the murders that were committed there. The valley of service bullets that were fired at the people who were assembled at a meeting who had no arms, who were not making any protest against anything but were sitting down to hear a lecture. According to the official statement made yesterday 300 of such men were massacred there. Perhaps, when the inquiry proceeds further it will be found that the popular estimate that over 1000 were killed is nearer the truth.

Now my Lord, I want the Government to realise the intensity of the feelings of Indians, and I should say they should be the feelings of every human man and woman, in regard to the circumstances. I impute no blame here to any individual. I have avoided trying to apportion blame. I deplore the event. Whether it was a British officer who was guilty of this massacre of innocents, or an Indian, it is to me a matter of equal sadness and sorrow. It can give me no pleasure to think that any British fellow-subject of mine should have been led by those who were in power or by his own ignorance or error to commit any such foul deeds as the people say have been committed. But I do think, my Lord, that the facts which have been stated are grave enough to call for a most impartial and most searching inquiry on the part of His Majesty's Government. I do not know of any event, since the advent of British rule in India, more inhumanly more calculated to distress man than these events of Amritsar and I therefore say that it is the duty of Government to institute an independent inquiry which will bring out all the real facts. When the facts have been found I have no doubt that my British fellow subjects, like any other decent people will call for justice, not with any desire for vengeance, but with the desire that the calls of humanity should be met, the calls of justice should be satisfied. I regret to say that in his

attempt to minimise the value of the proposal I have put forward that the inquiry should be by a Royal Commission, the Home Member understated the facts. He showed that he does not yet realise the enormity of the evil that has been wrought, that he does not yet feel that holding the office of the Home Member, he ought to stand forward to plead for justice in the case of every single subject of His Majesty who met with death in these tragic times in the Punjab

“My Lord, if we ask for a Royal Commission, it is not out of any disrespect to your Excellency or to any member of your Excellency's Government I shall be sorry if any word which I utter should indicate the smallest disrespect to any member of the Government. But, my Lord, what are the facts? I ask the Government to look at them in a calm dispassionate manner. Mr Sinha has referred to some of them. You have to deal with public opinion, and the public feel, by reason of the acts committed during the last few months, that the Government of India having been closely identified with the policy pursued in the Punjab, it ought not, in fairness, in propriety, to deal with the report which will be submitted by the Committee of Inquiry into Punjab affairs. My Lord, if the Government of India will appoint this Committee, that fact will no doubt lead naturally to the conclusion that the report should come to the Government of India. I quite agree with the Home Member there. But it is exactly because it is desired that the report should not be dealt with by the Government of India, that it is urged that the Government of India should not appoint the Committee. I quite agree with the Hon'ble the Home Member that if the Government of India does appoint the Committee, the report should come to it. That is why, holding the view I hold, I have urged in my Resolution that the Governor General in Council should request His Majesty's Government to appoint a Commission. I did not use the word 'Royal' before 'Commission,' because I thought it would be understood by everybody familiar with the work of the Government here and in England that, when I said that His Majesty's Government should appoint a Commission, it meant a Royal Commission. Now, my Lord, Commissions and Committees are appointed with a certain purpose. When there was a great outcry about nationalisation in England in March 1919 and a Commission was to be appointed, the '*New Statesman*' speaking of its Report, said —

‘And, human nature being as it is, the character of that report depends, almost entirely, on the way in which the Commission is constituted, on which Mr Lloyd George's final decision will not be known until this article is in the press. The Prime Minister has, therefore in this matter, during these very days, the gravest of responsibilities. He can appoint members, whom the public will accept as quite a good choice, from whom he can confidently expect one report, or he may choose other members, equally acceptable to the public, from whom he will expect another report.

What is vital is to get a report that will prevent the strike
Which report is Mr Lloyd George selecting the members for?

It is vital here to get a report which will state the truth in regard to the occurrences in the Punjab.

Now my Lord if the Government of India are going to appoint the Committee, naturally the public ask what has the Committee to inquire into? Obviously it has to begin with inquiring into the truth or otherwise of the declaration of open rebellion in Lahore. That was not an act of the Local Government that was an act of your Excellency's Government and all that followed thereafter—the establishment of martial law and its maintenance in spite of the protests, of the press and the public,—is all what the Government of India are responsible for with which they have been closely, sadly too closely identified. My Lord your Lordship has desired that a reference should not be made to the reason for the resignation of Sir Sanjivan Nair; but when I referred to it the other day I mentioned that the reason for it had got into the papers; and to-day I have got in my hand the Debates of the House of Commons which show that a question was put about it by Colonel Wedgewood, in answer to which Mr Montagu said— I have no official information, but understand that Sir Sanjivan Nair resigned because he differed from his colleagues in the question of continuing martial law in the Punjab. Now my Lord it is no good running away from facts.

Our acts our angels are, or good or ill,

Our fatal shadows that walk by us still

If the Government of India or the Governor General in Council declared that there was open rebellion in Lahore and Amritsar if the Governor General in Council gave his authority for the establishment of martial law in Lahore Amritsar and other places, if the Governor General in Council maintained martial law when there were protests from all quarters that it should be ended, if the Governor General in Council, on the protest of a colleague that martial law should cease in the Punjab, accepted his resignation and allowed martial law to continue in the Punjab, then, my Lord, you ought to pardon those who think and say that the Government of India is too closely identified with the policy pursued in the Punjab to take an impartial view of the matters with which the Committee will have to deal though their bias may be, will be unconscious.

‘ Lastly my Lord, there is your Excellency's speech of the 3rd of September. I speak with great respect, but I beg your Lordship and the Government to practise a little introspection on a solemn occasion like this and to reflect whether those who are urging, respectfully urging that the Committee should not report to your Excellency's Government, are wrong when they find that even in that speech your Lordship showed a very firm

attitude in support of what has been done. These are the reasons, my Lord, which have led the public to ask that the Government of India should not appoint the Committee of Inquiry, these are the reasons which justify my Resolution in asking your Excellency's Government to ask His Majesty's Government to appoint a Commission. The Hon'ble the Home Member tries to meet me by saying that the Secretary of State has been consulted. 'It is in consultation *with* him,' said he that 'the Committee is going to be appointed.' My Lord, I do not want the Committee to be appointed in consultation *with* the Secretary of State. I want the Committee to be appointed *by* him, in order that the report should go *to* him and therefore be laid at His Majesty's feet.

"My Lord, I will now come to the question of the constitution of the Committee. I beg your Excellency to consider whether public opinion is not justified in expressing disapproval of its constitution. I fear my Lord, I am exceeding my time. If your Lordship will, in view of the peculiar circumstances permit me to go on, I will .

The President — "I have no wish to stop the Hon'ble member, but I think that five minutes ought to see the end of his speech. He has already exceeded his time."

The Hon'ble Pandit Madan Mohan Malaviya — "Thank you, my Lord. The constitution of the Committee is open to exception. As I said on the first occasion, I do not make the smallest insinuation against the impartiality of any member of the Committee, but not knowing some of the gentlemen who have been nominated the public are sceptical about them. And I am bound to place the public view before this Council and the Government. My Lord, I hope the Hon'ble Mr Rice will absolutely excuse me if I refer to him by name. The objection is that an additional Secretary to the Government of India in the Home Department should be appointed by the Government of India to a Committee of Inquiry which is to enquire into matters with which the Government of India is identified. I refer to it to show that the Government themselves are to blame for the criticism which is being hurled at the constitution of the Committee.

"Now, my Lord, I will make one suggestion, the Commission which I would suggest should be one consisting of, say, Lord Haldane, Viscount Esher and Sir Lawrence Jenkins, or I should like to have a Commission consisting of Mr Austen-Chamberlain an *ex* Secretary of State for India, and Lord Hardinge and Lord Curzon, *ex* Governors General of India. My Lord, I suggest such a Commission as it will command confidence all round. Speaking of Lord Hardinge I am reminded as one speaker has already said that he passed through more strenuous times in India than any predecessor of his had known, and let us hope any successor will know. He very narrowly escaped death at the hands of a villain, and yet, my Lord, the first thing he uttered to Sir Guy Fleetwood Wilson—when he saw him after the bomb

had struck him—and I heard it from Sir Guy's own lips was No change of policy Wilson ; and Sir Guy Fleetwood Wilson replied No change of policy your Excellency. Martial law was not then declared and people were not subjected to any of the troubles they have had to suffer in the Punjab. Lord Hardinge knew the people, he loved them and I could not suggest a better name for the Commission. Then, I suggest Mr Austen Chamberlain. We have not had the honour of welcoming him in India, but we have faith in him as an English gentleman that he will do the right thing if he presided over the Commission. And I name Lord Curzon because I have confidence that, if Lord Curzon came out and inquired into all that happened he would not spare the wrong doers and the public would be satisfied with his verdict. I place before the Government the option of one of these two Committees. I do not ask for the inclusion of a single Indian name and I am sure that, if it were necessary a hundred platforms would support my view and make it clear that the public will be quite satisfied if we had a Commission of the kind I have suggested.

But, my Lord if you will not have a Commission of that kind then you must recognise the justice of putting on the proposed Committee at least one more Indian, not a safe man whose views will not come into conflict with the views of the Government, but a gentleman who enjoys the confidence of the public, and who may be supposed to represent the opposition. Ditcher writing in *Capital* has done me the honour of suggesting that I should be placed on the Committee. My Lord I suggest a better name. I know many facts about the occurrences in the Punjab. I venture to think that I know more facts about these distressing events than probably any member of the Government, either the Government of India or the Government of the Punjab does but there is one gentleman who knows more about them and that is my esteemed friend the Hon'ble Pandit Moti Lal Nehru, Advocate of the Allahabad High Court. He has, my Lord at the sacrifice of a fee a thousand rupees a day, laboured for many days in the Punjab sifting out facts, and gathering evidence. He is in possession of a volume of facts which will be of great help to the Committee. I suggest that as Mr Montagu appointed Lord Sydenham to the Joint Committee so your Excellency's Government may appoint Pandit Moti Lal Nehru, a clear headed advocate and a sound lawyer as a member of the Committee. If he is not acceptable, then I would suggest that Justice Sir Abdur Rahim may be so appointed. My Lord, these are suggestions which I hope the Government will consider.

I will now deal with the remarks

The President — The Hon'ble member has been speaking already five minutes over the allotted time and I think that he ought to observe the rules."

and European, has to be safeguarded in future. The reason why these five Europeans met with their untimely end, will probably be known when the Committee of Inquiry will report. It will probably be found that the Indians were not to blame, but that provocation had been given to them which led to the unfortunate deplorable detestable crimes which some of them committed. Before the crimes were committed some Indian lives had been destroyed by the firing that took place at the railway bridge at Amritsar. The Deputy Commissioner of Amritsar deposed in one of the cases which was tried by one of the Martial Law Commissions, that he had found no evidence to show that any excesses had been committed by the mob before the firing took place.

Lastly my Lord I wish to say a few words about some of the remarks of His Honour Sir Edward Maclean. I need hardly again protest my deep respect for His Honour. But while I feel grateful that he has shown consideration in many respects to those who are at present locked up in His Majesty's jails, I regret to think that he fails to realise that no reduction of sentences, that no such amelioration of the hard conditions of jail life as he has been good enough to bring about can relieve those who are unjustly suffering imprisonment of the poignant grief which they feel every moment of their existence in the jail. I would ask His Honour seriously to think whether any mitigation of sentence or relief given in the manner indicated above, can obliterate the sorrow the indescribable grief of those who are at present unjustly locked up and are undergoing imprisonment in the jails of the Punjab. My Lord I think His Honour said that he would not disturb the findings of the Commissions. Probably he felt that he could not. But, my Lord, most of the 1500 men who are locked up in the jails ought to be as free as we sitting here to-day are. I request therefore that whether the Committee of Inquiry comes four weeks hence or earlier your Excellency's Government and His Honour the Lieutenant Governor of the Punjab should seriously consider whether on such security or securities, personal or pecuniary or both, as may seem to him adequate those men who have not been concerned in arson, or murder or pillage should not be released, both in order that pending the result of the inquiry they may not suffer further unnecessary imprisonment, and in order that they should be able to give evidence before the Committee and have their case properly put before it. I earnestly hope the Government will be pleased to consider this suggestion.

The Hon'ble Sir William Vincent :— My Lord, the Hon'ble Mover has complained that by reason of his solitude in Simla and of his inability to consult his colleagues he was not able to modify his Resolution earlier. If that is so, my Lord, the Hon'ble Member has been much maligned. The general impression is that he has been having daily consultation with non-official members, that he has interviewed them one after another. Hon'ble members will know if this is correct or not, and also whether he has not taken every opportunity of

ascertaining what their views are I have been told in fact that there is no legitimate measure for winning support for his Resolution which he has not taken and his complaint that the Resolution was not amended because of his being unable to consult his colleagues is not one therefore ...

(The Hon'ble Pandit Madan Mohan Malaviya here got up to intervene.)

The President —“ Order, order, the Hon'ble Member has already taken up the time of the Council ”

The Hon'ble Pandit Madan Mohan Malaviya —“ I only want to correct a statement of fact I did consult some Members and it was only after consulting them that I sent in notice of the amendment ”

The Hon'ble Sir William Vincent —“ My Lord, I find it a little difficult to proceed if I am subjected to these constant interruptions I have allowed a great many statements of the Hon'ble Member, even some which I considered to be misstatements, to go unchallenged, and I ask for some consideration from the Hon'ble Member

“ There is another point in the Hon'ble Mover's reply to which I wish to draw attention, and that is, the question of minimising the character of the disorders and outrage I again ask the Hon'ble Member how the attacks on these unfortunate non officials can possibly be justified. There may be questions as to the propriety of the action taken by the troops and police on particular occasions, but I have never yet heard any suggestion that these attacks on these private individuals were not absolutely unprovoked attacks on perfectly harmless people not connected with the Government at all, attacks on the conduct of officials are another matter, but these bank managers who were murdered were not officials of any kind, and I think that it is unfair even to insinuate in this Council that there was any justification for the murders of these unfortunate men—murders which the Hon'ble Member regrets so greatly and at the same time attempts in a manner to justify—perhaps 'justify' is too hard a word, I ought not to use it, but murders at any rate in regard to which he pleads extenuating circumstances when he says that after the inquiry is made it will be found that the victims were also a good deal in fault I suggest that this is prejudicing the inquiry in an eminently unfair manner

“ Similarly, I refer to his observations about the Jallianwala Bagh. That is a matter which will come up before the Committee If it is found that there was no justification for the firing, then will be the time to decide what action should be taken, but I ask this Council now not to prejudge any individual or any officer of Government in this matter The Hon'ble Mr Chanda, if I may say so, took up very nearly the same line as the Hon'ble Mover, and in my humble judgment, there were other members of this Council including Mr. Ayyangar who spoke, not as if they wanted an inquiry, but as if they really

wanted this Council to prejudge the case to create an atmosphere against the Government, to induce a feeling of prejudice and bias in the minds of Hon'ble Members, and in fact to condemn in advance those into whose conduct they were professing to ask for an inquiry. That is an attitude which, I think is unfair to those whose conduct is impugned.

There is only one other remark that I have to make. It was said that there were great protests at the time against the imposition of martial law. My Lord, the position is really this; there is now a tendency to minimise the disturbances, to make out that they were much less serious than they actually were. The gravity of the situation in April last is now forgotten. At that time there was a general feeling of great apprehension throughout the whole of India; there was no word of protest at all. It was some time afterwards that we first heard of these protests. When the disorder was at its height we were asked to suppress it firmly. When this was done men, in some cases those very men who asked us to deal with it at the time, turned round on the authorities. A few years ago when there were disturbances in Bihar and the Government failed to take sufficiently drastic action to meet with the approval of certain papers, they were blamed for not doing more for not having taken sufficiently severe measures. In the present case there was a crisis of the first magnitude, our officers were called upon to arrive at important decisions at a moment's notice, very momentous decisions on which the peace of the country depended; at the time they were acclaimed and applauded by many for having saved the country. Now my Lord, that the danger is past, there is an attempt to turn on them and to protest that their conduct was cruel and unreasonably severe.

My Lord, there is only one final point that I wish to mention with regard to a remark of the Hon'ble Mr. Sinha. He said that the Hon'ble the Home Member had maintained a non-possimus attitude, I think that this was the expression that was used in regard to certain modifications which have been proposed. My Lord, if that was the impression which I created I can only regret it. What I wished to convey was that a number of new suggestions had been pressed on Government, in regard to which it was impossible for an individual member of this Government to express an opinion, and that therefore I could make no statement on these suggestions. If that, my Lord, is taking up a non-possimus attitude, then I must plead guilty. But I think a fairer and broader interpretation might well be placed upon my words."

The Hon'ble Sir Dinshaw Wacha :— May I make a suggestion, my Lord that the Resolution be divided into two and put separately ?

The President :— I think we have discussed the Resolution as a whole and I shall put it as a whole.

The Resolution was put and negatived.

In the course of the debate on the Hon'ble Mr Chanda's Resolution re Inquiry into firing upon crowds at Calcutta, the Hon'ble Major Malik Sir Umar Hayat Khan, Tiwana, made the following remarks —

The Hon'ble Major Malik Sir Umar Hayat Khan —“ My Lord, up to a certain extent I will support the Hon'ble gentleman on my left and the case is this. I think, wherever these disturbances took place, whether in Calcutta, in Delhi or in the Punjab, the origin of all of them was the same, and if the same Committee were to make inquiries they would find that all these disturbances were connected. This, I think, would help the inquiry to a very great extent and if inquiries were made in Calcutta by the same Committee, it would be much better. I am very glad that the Hon'ble gentleman read through all those papers, by which I have been able to find out that exactly what was happening in Calcutta happened, I believe, in Delhi as well as in the Punjab. That also shows, that as the origin of these disturbances is one, the same Committee should investigate into them. There have been differences between what happened in the Punjab and in Calcutta and Delhi, but this is due to the fact that there are certain peculiarities in the Punjab. It is the home of soldiers, it is the home of brave men, and when they are excited naturally they do certain things which other people do not, and if there were any difference between the happenings in the Punjab and elsewhere, it is due to this fact. Then many other things have been said by my Hon'ble friend such as the words used, namely, '*Gandhi ji ki jai*'. Well, the same words were used everywhere which again shows that the origin was one and the same. As he said, the boys were taught first to begin because it was considered that nobody would fire on them. That was the kind of thing which was done everywhere, so that it looks as if the people who started this were at one place and they planned these things and then sent out orders all round, so as to be obeyed. In the same way the time which was chosen synchronised. It was a very bad time and it was chosen when big fairs were being held not only in one part of the country but all over the country, where not only people from the cities but people from outside attended. It was considered that if such a propaganda was started in the cities, those men would go into the country and induce the country people to join. It would have been a very serious thing for the Punjab if this had happened, because the country is the place from where the soldiers are recruited. It was thought that the soldiers would join, but these men had been in France and elsewhere and they knew what our Government was and how strong it was. That was why they did not join. But if this plot had been properly planned out, and the soldiers had been fools enough to join in it, there would have been very great difficulty, because, being the hot weather, the only troops available would have been the English and the Gurkhas, who cannot fight so well at that time of the year. Again, it is known that Kabul only joined because men were sent there. If anything had happened to the soldiers and, if the enemy from outside had come into India, I do not know how difficult would have been the situation thus created, nothing could have been worse

The Hon'ble Pan Madan Mohan Malaviya — May I rise to point of order? Is my friend the Hon'ble Member in order in talking of these things on this Resolution?"

The President :— I presume he is leading up to some point."

The Hon'ble Major Malik Sir Umar Hayat Khan — I am referring to these things simply to show that there were differences in the Punjab. The differences were due to the peculiar circumstances of the Punjab. I want to show that the origin of the disturbances in Calcutta, Delhi, Hyderabad and all these places was the same there were these differences in the Punjab, while in other places, the people being more learned adopted a different course. I only want to show that, as the circumstances were one, the same Committee ought to be asked to investigate into the happenings in Calcutta.

* * * *

(5).—From Proceedings of Meeting held on
September 18, 1919
The Indemnity Bill.

The Hon'ble Sir William Vincent —“My Lord, I move for leave to introduce a Bill to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith. This measure, my Lord, has been the subject of so much discussion both in the Press and by other competent authorities, that I think I ought to set out to the Council in some detail the reasons that have led the Government to introduce the Bill at this moment and to explain *seriatim* the effect of, at any rate, the more important clauses of the Bill, and I will ask Hon'ble Members to listen to me as carefully as they can, to follow in particular the detailed statement of the effect of the clauses, to view this matter without any kind of bias and to get rid of any misapprehension as to the intentions of Government or as to the meaning of the Act, which may have been created by writings or speeches outside this Council

“My Lord, wherever martial law is declared, as it was recently in the Punjab, it inevitably follows that speedy and decisive action has to be taken by the executive officers of Government for the restoration of order. Not only does this responsibility lie directly on the supreme military commander, but also on those who are subordinate to him—that is, he gives orders which he thinks necessary, and it is their bounden duty to carry out those orders. It follows that frequently action which is just and proper, though not necessarily legal, is taken by these authorities.

“They cannot possibly wait in such circumstances to examine the law and see whether what they propose to do is strictly legal or not, delay at such a time is fatal. The authorities and the officers concerned have to act at once. Indeed, the very meaning of martial law is, that it confers powers to maintain order at any cost, that may be necessary, of life or property. That is the essence, as I understand it, of martial law. Such conduct will in some cases necessarily involve an infringement of the personal rights of individuals, either of their liberty or their rights in regard to property, and when martial law expires, an Indemnity Act of some character is the inevitable consequence. I think members in this Council will realise that if such an Indemnity Act is not passed, no officer charged with the very irksome and responsible duty of restoring order will ever act with the confidence that is really essential for the effective handling of the situation. If he has to wait, to hesitate to examine the law, to consult legal authorities here and there, the time for action may be gone, and the very mischief he seeks to stop develop to a dangerous degree. That such an Indemnity Act is the normal consequence of any period of martial law is, I believe, accepted by all constitutional writers. I do not wish to weary the Council by citations from a number of these, but I will content myself with one —

If at a period of national danger a breach of the law is demanded, if not by absolute necessity yet by stress of political expediency the law breaker whether he be a General or other servant of the Crown who acts *bona fide* solely with a view to public interest may confidently count on protection by an Act of Indemnity

Statutes of this description have been invariably or almost invariably passed after the determination of a period of civil war or disturbance and the very object is to protect officers and others who in the interests of their country have in time of common danger pursued an illegal course of conduct

These quotations are from one of the great writers on Constitutional Law Dicey In fact, we know that whenever there has been an insurrection or civil war or invasion by a foreign power Acts of this character have invariably been passed There was one in England after the insurrection of 1715 again after 1745 we had one in this country after 1857 and more than one instance of such Acts is to be found in the various Colonial Legislatures, including the Legislature of South Africa Further than this, when a military officer is acting under the stress of such circumstances, in a crisis of great magnitude, it is essential that he must have behind him some sanction to enforce his orders reference to ordinary Courts in such cases is impracticable It would involve delay which would be fatal to the very object he has in view Consequently summary measures, often stern and always of a very speedy character are necessary if order is to be restored There are some who think that these summary orders necessarily connote injustice and an undue degree of harshness, but it is not correct to think that this is either the practice or the intention of many commanders I should like to cite from the Martial Law Regulations passed in Lahore on this point. This is an order by Col Frank Johnson, a somewhat well known name

In order to prevent the occurrence of regrettable incidents, it must be clearly understood that the institution of summary law neither necessitates nor justifies the committal of excesses, either in the maintenance of order or in enforcing obedience of martial regulations or the infliction of punishment It cannot be too clearly impressed upon all ranks that temporary supersession of the ordinary process of civil law by the introduction of summary law does not mean that justice ceases to be administered; on the contrary the suspension of the usual safeguards make it doubly imperative that all concerned should bear in mind that it is up to them to see that justice and not irresponsible violence is administered

It is however essential that the military authorities in such cases should have power to come to swift decisions of a most important character; power

For full text of this order see Appendix I page 35 *ante*

to take prompt action on all matters affecting the State, power to punish summarily and effectively those who endanger the peace

“My Lord, it may be said that martial law was not necessary in the Punjab and that the Government made a mistake in proclaiming it. I do not seek to argue that point now. I believe that any such course would be unfair to those concerned, primarily or indirectly concerned, until the evidence of the facts has been recorded by the Committee of Inquiry. The decision on that matter must rest with the Committee in a great measure and after their report has been received, with other authorities. But, irrespective of this question, the position of our officers must be protected. I do not know if I make myself clear on that point. What I wish to say is this, whether martial law was necessary or not, our officers, our subordinate officers were bound to carry out their duties, and to give effect to the orders given them and they cannot be penalised on that account. I think the case has been very clearly put on this point by a writer in, I think, the ‘*Civil and Military Gazette*’ recently. He called himself ‘An Indian Student of constitutional law’ or by some such title. I commend that article to the consideration of Members of this Council. It appears to me to put the case for an Indemnifying Act both impartially and fairly.

“So far I have been dealing with the part of this Bill which deals with indemnifying officers of Government. The second part deals with the validating to a certain extent of a number of sentences which have been passed. I shall explain this in detail later, but it is clear, as I said before, that where military officers are given power to issue certain orders, it is essential that they should also have authority to enforce those orders. There must be some sanction behind them, some power of enforcing order speedily and effectively and in many cases—in fact I believe this is the normal course—summary Courts are appointed to administer justice in such circumstances. They do not deal normally with all criminal cases, but only with cases arising out of a breach of military regulations or cases connected with the disturbances, and I believe I am right, so far as the Punjab is concerned, in saying that the duties of the summary Courts were confined to this class of cases, but I speak subject to correction on this matter. It is sometimes supposed that these summary Courts, however, dealt only with petty offences, such as breaches of military law regulations. That is an entirely incorrect assumption, and if Hon’ble Members will see the statement* that, I think, was laid on the table here recently, if not I will have it so placed, they will see that the summary Courts dealt with many offences of great gravity, such as arson, theft, rioting, breaches of the Railway Act—and they are really very serious—and offences under the Telegraph Act, which really meant the endangering of all communications both between the Local Government and their officers and between the Government of India and the Local Govern-

* See *Supplement II*

ment. Many of these men are now under confinement and I want to make it clear to the Council that, unless their confinement is now ratified in some manner then the continued detention of these men in jail is illegal. In fact from the date on which martial law expired our only justification for retaining these men in custody was our intention to introduce an Act of this character at the earliest opportunity.

My Lord I will now if I may proceed to explain the Bill clause by clause. I will not deal with clause 1 which is of no great importance but proceed at once to clause 2. That clause indemnifies any officer of Government, whether civil or military from any action, civil or criminal in respect of any matter or thing done for the purpose of maintaining or restoring order. But I want Hon'ble Members to read and fully consider the effect of the proviso to that clause provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes. Those are really the governing words of the clause. I think I have already said, or at any rate I say now that this Bill will in no way forestall the inquiry by the Committee and I will proceed to justify that statement. I do not think that any member of this Council will for a moment suppose that the Committee of Inquiry which assesses the blame for these disturbances, will recommend any form of punishment for any officer of Government who has acted *bona fide* and in a reasonable belief that what he did was necessary. Further in any case the report of the Committee is not affected by this Bill. This Bill protects officers against proceedings in the Courts of Justice. The report of this Committee, whatever be its value, will in no sense be evidence for the purposes of any such cases; that is a matter which can only be decided on evidence in the Courts. The Government of India have decided, for the satisfaction of their own conscience and to meet the public demand, to appoint a Committee to inquire into these disturbances, and their action on the report of that Committee will not be limited or barred by this Act in any way. This Bill simply deals with suits and legal proceedings, and really all that it seeks to do is to protect from legal proceedings *bona fide* action taken with a reasonable belief that it was necessary to suppress disorder and not any action taken *male fide* or without good reason. We make no attempt by this Bill at any rate to protect officers who have been guilty of excesses which cannot be justified by the terms of this proviso. Now I myself shall be much surprised and disappointed if the Council will not give protection to officers for actions of this character actions which are morally right though they may be legally wrong, that is, actions for which no strict legal justification can be made out. If this Council says that in a time of this character when the country was in great disorder—and I put it very mildly—officers who acting on the understanding that martial law had been proclaimed by an authority which is superior to them, over whose actions they have no control if officers acting on that

assumption and acting *bona fide* and perfectly reasonably are not to be protected by Government, then the future prospects of Government officers is very serious. How can any member of this Council expect an officer to act confidently, firmly and decisively if he knows that this Legislative Council and the Government will repudiate his action at the first opportunity? Is he not entitled to come down here and say 'I have done what I was told. I have acted perfectly reasonably, I have acted fairly, I have acted *bona fide*—now give me that protection which I am entitled to by all constitutional practice?' My Lord, in a Resolution published by this Government some time ago I think during the period of the disturbances we solemnly promised that we would afford all those charged with the onerous duty of restoring order our full countenance and support, and it is in fulfilment of that promise that I now come to this Council and ask Hon'ble Members to ratify what we then promised, believing that that is a just and honourable course which must commend itself to all Members here. As I said before, I conceive it to be impossible that the Committee should censure any one who is not guilty, who has acted *bona fide* and in a reasonable belief, that his action was necessary, and the report of the Committee will not and cannot affect the liability of officers of Government in the Courts of law. That is the reason, my Lord, why I say that this Bill, which merely seeks to protect those who have done their duty, in no way forestalls the report of inquiry by this Committee.

"I now come on to section 3, and this is a section which, I am afraid, I shall have to explain at some length, because there exists considerable misapprehension about it. Section 3 says

'For the purposes of section 2 a certificate of Secretary to Government that any act was done under the order of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"Now a certificate of a Secretary to Government only proves, and the Hon'ble the Law Member will bear me out here, that the act was done under the orders of an officer of Government. Many private individuals during these recent disturbances have assisted Government in various ways, many indeed have been of the greatest assistance to the authorities, and all that this portion of the clause says is, that if any man acted under the orders of an officer of Government and can get a certificate to that effect, thus far and no further is that certificate conclusive proof of that fact. The question of *bona fides*, as I understand the Bill, is a matter for the Court entirely. That is, a man will go to the Court and it will be for the Court to say, whether his action was *bona fide* and reasonable, and what fairer proposition could be

put to this Council? When a man goes down the Court 'shall have power to say yes, you did so and so whether it was reasonable or not, that shall be judged by one of the Government judges acting in his judicial capacity. My Lord if there is any cause of complaint in this matter it might well be on the side of Government officers that the Bill does not go far enough, and if Hon'ble Members will look to the Act of 1860, which was passed after the Mutiny they will see that the provisions of that Act went very much further than this, and that when a Secretary to Government there ratified the conduct of an officer this ratification absolved the man altogether from any possibility of a suit; that is the kind of certificate which apparently some Hon'ble Members think that this Bill provides. It does not. If this Bill had come on for consideration after the Commission of Inquiry after the whole of these matters had been investigated, it might have been possible to frame it in that way. It is true, however that this clause does go thus far that it provides that all action taken for the aforesaid purposes that is for restoring order shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.

My Lord, is a Government officer to be denied even that protection, that he shall be presumed to have acted in good faith, that he shall be presumed to be innocent until he is proved to be guilty? Is that much to ask from this Council? Is that a reasonable request, or is it not? I believe also that a clause of this kind is a normal condition—I speak again subject to correction—of many Indemnity Bills of this character.

My Lord, I now pass on to clause 4, which sanctions the retention in custody of persons convicted by summary Courts. I have explained to this Council that many of these men have been convicted of serious offences that they are in reality dangerous criminals whom it would be most unsafe to release wholesale upon the countryside. I believe—I have been told this by the Punjab Government also—that any such release would not be compatible with the public safety. But I ask Members of Council to read this clause again with clause 5. Clause 4 says 'that every person confined under or by virtue of a sentence passed by a Court, or any other officer acting in judicial capacity shall be deemed to have been lawfully confined and shall continue so until discharged by lawful order or released by order of the Governor General in Council. Clause 5 however again limits that and restricts the operation of that clause. First of all it says:—

Nothing in this Act shall apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919.

Members of this Council are aware that various persons who have been convicted by the Commissioners appointed under this Ordinance have appealed to the Privy Council. It would obviously be improper for us to attempt in

any way by an Act now to invalidate the actions of those Commissioners. The sentences depend for their validity upon Ordinances already passed. I do not propose to discuss the question of these Ordinances here for one moment nor would it be relevant to this discussion. All I wish to point out is, that this Bill in no way affects sentences by Commissioners appointed under the Ordinances. Then there is a second limitation, that the Bill in no way prejudices the right of any person who thinks he has been dealt with unjustly to appeal to the Privy Council from sentences of these summary Courts. There is no intention, even if there were the power, of which there may be some doubt of interfering with that right. Any man who has been convicted by one of these summary Courts is at liberty to go and seek for leave to appeal to the Privy Council just as if this Bill had not been passed. I tried to make that clear because it has been suggested that in some way the action of this Government in introducing this Bill, is intended to prejudice the authority and power of the Judicial Committee. It is quite clear to my mind that it is not so. It has been our deliberate intention to make that abundantly manifest to every reasonable man. At the same time, my Lord, I do admit that there are many men in this country, perfectly loyal citizens, men of weight and authority, who have grave apprehensions and felt great uneasiness as to many of these convictions. We believe that many of these apprehensions are ill founded, but still there is no getting over the fact that there is this sense of uneasiness as to the correctness of all these convictions. That apprehension has been alleviated to a considerable extent, but not removed, by the admitted clemency of His Honour the Lieutenant Governor, and the debate on the Resolution to appoint a Committee to investigate these occurrences indicated—I think, on the part of many Members not hostile to this Government, not unreasonably opposed to everything we do, but Members who are ready to co operate with Government in this matter, in all matters, and who really seek to do what is right—uneasiness in the mind of many Members of this Council and a feeling that some of these sentences had not been examined with sufficient care, and there was further indication of that feeling in the proposal made for revising the terms of reference to the Committee. I think Hon ble Members will remember the various suggestions. Well, to meet these apprehensions the Government of India have decided to have all these cases examined and revised by two Judges of the High Court, one being an Indian and one being a European, in order that they may recommend to His Excellency the Viceroy or the Governor General in Council, as the case may be, through the Local Government, such action as they think fit, either in the direction of remitting or commuting sentences, or any other course they may think desirable, having regard to the circumstances of the case. My Lord, it is the desire of the Government of India that full justice should be done in this matter. They are as anxious as any Member of this Council that innocent men should not be detained in jail. One point, however, I have not made clear, and that is, that our intention is that only the cases of those men who remain under

sentences should normally be inquired into by these Judges, though they will also deal with any other cases which may specifically be referred to them by His Excellency or the Government of India.

Now I do hope that this will meet the approval of Council and indicate the desire of Government to prevent injustice. I believe that such a Tribunal as we propose, being composed of judicial officers, will be far more effective for the purpose of seeing that justice is done than any Committee of Inquiry which may be appointed to investigate the general occurrences. For not only will the officers have the advantage of judicial experience but by reason of their being on the spot, they can begin the work immediately and directly. So that I hope the matter will be dealt with with reasonable expedition.

There is only one other clause in the Bill clause 5 to which I need draw attention and that provides for the payment of compensation where the property of any person has been commandeered by the military authorities. Members of this Council are aware that when martial law is declared and when the military authorities take over control they frequently have to and frequently do commandeer property for their own use if such action is in the public interests necessary. All that this clause proposes is, that the Government should pay compensation for such commandeering and provides the means by which the compensation may be assessed.

My Lord summarising what I have said, I want to make one or two points quite clear. First, this Bill is the inevitable consequence of martial law. Whether martial law was necessary or not, we must at least protect our officers. The Bill will not in any way forestall the decision of the Committee of Inquiry. The indemnity of officers is limited, and reasonably limited, to those who have acted *bona fide* the question of *bona fides* will be decided by the Courts, and the validating clause, to which I have referred already does not affect either any case tried by the Commissions or any right of appeal to the Privy Council. Further in order to prevent any injustice and so far as we are able, to enable us to exercise clemency so far as is compatible with the public safety we will have the cases of the men convicted by these summary Courts and still in jail revised by two of the best judicial authorities that we can procure. My Lord I contend that this is a reasonable Bill, a Bill of the most moderate character and that it only affords such protection as it is essential for us to give to our officers, which they have a right to demand of us and which it is our paramount duty to give them. I may be asked why the Bill is introduced at this session. Indeed, I promised the Council to explain this, and, having regard to what your Excellency said if I am only to speak once both on the Bill and the amendment, save for my right of reply I ought to explain now why the Bill is introduced at the present juncture. The reason is very simple. If it is not passed now if it is not brought into effect now, then our officers, officers who, *ex hypothesi*, have behaved fairly

and properly, will be left liable to suits at the instigation of any malicious person. Is that reasonable, is that fair? I may be told that no suits will be brought in the immediate future. My Lord, suits might be brought, might even be decreed against them before any Bill was brought forward in this Council, not against men who have acted *mita fide* but against those who have merely done their duty with the greatest care and in the most reasonable manner. I say to this Council that that is a position to which no reasonable man here can ask us to submit our officers. Many of the men against whom suits might be brought, against whom action might be taken, may have gone from this country. Should they be left with this sword of Damocles hanging over them although they have done nothing to deserve it? Is that fair? Then, there is another point. If this Council does not validate the detention in jail of these criminals, to whom I referred just now, then we shall have it once to release the whole number of these dangerous offenders on the world. I have told you that we have consulted the Punjab Government on this matter and they were definitely of opinion that such a release was not compatible with the public safety. The men are not convicted of minor petty offences at all, they are men who were engaged in the burning and looting of stations in the attacks on railway lines and in the cutting of telegraph wires, guilty of theft and very many of them of arson. They are a class of men who cannot be released with safety at present, and I submit that this Council will be well advised if they do not ask us to release them. My Lord, looking round the Council here, I see many members who have large vested interests in the country. I should like to know how long they would retain their property, their wealth or even their lives if the forces of disorder were once to break loose in this country. I ask the Members of this Council to look at the question in that light. Is it not their bounden duty to afford protection to those who have undertaken terrible responsibilities in times of difficulty and done their duty *bona fide* and honestly? That is the question that I put to each Member here. I want them to visualise what the position of an officer of Government in such circumstances is. Take the case of a young military officer. He does not know whether martial law has been rightly or wrongly proclaimed. His one object is to perform his duty, to do it fairly and honestly. He is told that the country is in disorder and that his duty is to suppress it. He tries in a reasonable and fair way to carry out what he believes to be his duty, and then, when he comes to this Council for protection, my Lord, are we to say, 'No, we cannot give it to you until an inquiry has taken place', or 'Postpone it till some other day'? I do not hope and trust that this Council will not endorse any such monstrous proposition. It is often assumed that it is only Europeans and Government that are interested in the maintenance of order. Hon'ble Members know that that is not so. Once rioting breaks out, who are the people who suffer? At least some Hon'ble Members of this Council know that they would be the first—their whole existence depends on the maintenance of law and order in this country. And how can they expect, how can any Member

of this Council expect, military officers of Government to do their duty unless they receive reasonable support? A military officer is in a position of peculiar difficulty. If he does not suppress disorders, he is liable to censure, blame and punishment at the hand of his superior officers. If he does not take adequate measures, he may be removed from his office. Why even civil officers in England have been held to blame for action of that kind. Take the case of the Mayor of Bristol. After the Bristol riots he was accused of failing to do his duty in not having taken adequate measures to quell the disorders and he was prosecuted. But, apart from his personal responsibility every officer of Government in this country is responsible under the system of administration for the lives and property of many hundreds and thousands living under his charge. Let each Member visualise to himself what his position would be faced with these difficulties, often with insufficient forces at his disposal to cope with disorders, do what he thinks to be his duty acting according as God gives him to see the right and then being penalised and held liable to prosecution and persecution afterwards for no reason whatsoever.

My Lord, I have spoken with some heat because I want to make it plain that I conceive that refusal to grant the limited protection which we ask for our officers would be a gross injustice to those whom we have solemnly undertaken to protect.

My Lord, I have attempted throughout my speech to say nothing that can in any way prejudice the result of the inquiry by the Commission. I have dealt solely with principles, not with particular actions. Whether any particular action was reprehensible, whether it was right or whether it was wrong, is not a matter which comes within the scope of this Bill. That is a matter either for the Committee of Inquiry and subsequent action by Government or for decision by the Courts. I have endeavoured throughout my speech to avoid saying anything which may prejudice the inquiry. I have also endeavoured and I hope successfully to avoid saying anything which might promote racial ill feeling, and I would ask Hon'ble Members who follow me, so far as they are able, to follow the same course remembering always how far the deliberate promotion of racial feeling—no, I will cancel that word deliberate, so I do not wish to excite any bitterness myself—I will say ill feeling has been responsible for the deplorable loss of life and for the terrible happenings in this country. I would ask each Member of this Council in speaking to this motion, to realise that any intemperat language of his which may revive or promote such ill feeling is a great danger and to remember that the man who uses it is rendering a real disservice to this country and is pursuing a course of conduct the dangers of which in present circumstances, it is difficult to overestimate."

The Hon'ble Mr Kamini Prasad Chanda :— My Lord, may I respectfully inquire of the Hon'ble the Home Member if this committee of judges will go into the question of convictions also and not only of the sentences?

The President —“ I certainly did not catch what the Hon'ble Member was saying ”

The Hon'ble Mr. Kamini Kumar Chanda —“ I beg to inquire, my Lord, whether this committee . . .

The President —“ More slowly, please ”

The Hon'ble Mr. Kamini Kumar Chanda —“ Whether this committee of judges will go into the question of convictions or only of sentences ? ”

The Hon'ble Sir William Vincent —“ If it will make any difference to the Hon'ble Member's amendment, I shall be very glad to give this information ”

The Hon'ble Mr. Kamini Kumar Chanda --“ My Lord, I beg to move this amendment which stands in my name and it reads as follows —

‘ That the consideration of the motion do stand over till after the submission of the report of the Committee of Inquiry into the Punjab affairs ’

“ My Lord, I wish at the outset to assure your Excellency and the Council that I have not taken upon myself to move this amendment with a light heart I have listened to the very impressive and very weighty utterance of the Hon'ble the Home Member, and I am aware that your Excellency's Government is convinced of the imperative necessity, according to their information, of this legislation, and 'if I move this amendment, not to oppose the passing of this Bill, but for the purpose of postponing its consideration now, I can assure the Council that it is due to an impelling sense of duty I have given the matter my most serious and, I may add, anxious consideration, and I felt it to be my duty to place this amendment before the Council In doing so, regard being had to the considerations which the Hon'ble the Home Member has so impressively and eloquently pleaded for, in proposing my amendment in view of the circumstances, I propose to avoid, as far as possible, all debatable matters. Of course a certain amount of controversy and dispute is inevitable, I shall try to minimise it There are so many matters to speak about and there is no time limit, and there might be a temptation to go on for a long time, but, my Lord, I shall try to be very brief, and for this purpose I do not propose to go into any individual cases about which it is charged that the administration of martial law has been guilty of excesses There is one other remark which I wish to submit before I go into my motion My Lord, it is a matter of great regret to us, I consider it almost as an irony of fate, that this painful episode in the administration of the Punjab Government should have to be discussed after His Honour Sir Edward Maclagan has assumed charge of the province. We know that in the short time he has been in charge of the province he has endeared himself not only to the province but to the country as a whole It is well-known that every one heaved a sigh of relief when His Honour was able to take charge

of the province. I am sure His Honour will understand that in bringing this matter at this stage, after His Honour has been in charge of the province, it is only from a painful sense of duty that we do so

Now coming to the amendment I may say at once that I agree to the general proposition which has been stated by the Hon'ble the Home Member and which is also mentioned in the Statement of Objects and Reasons of the Bill namely that after a period of martial law such legislation is inevitable. In fact, I think the Hon'ble Member might go further and say with Professor Dicey whom he has quoted that in England such legislation is undertaken before the suspension of the Habeas Corpus Acts runs out. That is so in England; but, my Lord, my submission is this that the cases are not really analogous; the conditions obtaining in England are not the same as in this country. In England it is well known that it is the British Parliament with whom rests the question of the suspension of the Habeas Corpus Acts. Here under the Statute, it is your Excellency in Council who have to declare martial law. Therefore, the necessity which might exist in England for an Act of this kind does not necessarily exist in this country. Now that apart, if we inquire as to why it is usual that in England suspensions of the Habeas Corpus Acts are always as a matter of course followed by a Validating Act, we shall see that that is because there has been up to now no case where the question of the necessity of the suspension of Habeas Corpus Acts has been raised. It has always been accepted that there was clear necessity. Where there is undisputed necessity for the declaration of martial law or suspension of the Habeas Corpus Acts, of course the Validating or Indemnity Bill will follow as a matter of course. But, my Lord here the case is different. Here it has been denied it has been disputed that there was any necessity for this declaration of martial law. The public have complained that martial law was declared on insufficient, inadequate grounds; that there are grave doubts whether under the existing conditions it could be legally done; and that there have been excesses under that declaration. In view of all this that differentiates the case of India from that of England, I say my Lord, that the question as to why while I do admit that a validating or indemnity Bill follows as a matter of course the declaration of martial law or suspension of the Habeas Corpus Acts, I oppose this motion or rather move that this motion do stand over does not arise. If the question can arise, my Lord, I submit the answer has been given to this by the Government themselves. I do not think there has been any case anywhere where there has been an inquiry about the necessity of martial law. I do not think there has been any case in India where a Committee of Inquiry was appointed to discuss and to investigate the necessity or legality of a declaration of martial law but here the question was raised and the Government of India accepted straightway the challenge as it were, and appointed a Committee of Inquiry to go into these matters. I submit, my Lord that that has made all the difference. No doubt the composition of the Committee and the tempo of reference do not fully satisfy the public demand; but

that is another matter. Now, my Lord, what are the scope and the functions of this Committee of Inquiry? We learned from your Excellency's speech on the 3rd that the Committee of Inquiry was to inquire into and report about, among other things, the measures taken to cope with the disorders in the Punjab. What were the measures that were adopted in the Punjab? It is no other than the declaration of martial law. The question that arises is, whether there was any necessity for that declaration, whether it was proper to declare martial law, whether under the conditions obtaining at the time there was legal power to declare martial law, and whether it has been carried out properly. These are questions, my Lord, that the Committee will have to decide. Now what is the reason, the justice, the necessity for this Bill? If we look to the Preamble of the Bill we see it is stated —

‘Whereas owing to the recent disorders in certain districts in the Punjab and in other part of India it has been necessary for the purpose of maintaining or restoring order to resort to martial law’

‘Resort to martial law’ These, my Lord, are the very matters which this Committee of Inquiry will have to go into and report on, that is the basis of this Bill. I submit that that can hardly be fair. I submit that having referred this matter for inquiry by this Committee, the Government of India have divested themselves for the moment of the power of going into this matter. If you go on with this Bill then what is there remaining for the Committee to go into? What will remain, if you now assume that there was necessity for martial law, what would remain for the Committee to inquire into, whether there was any necessity for martial law? But we are told by the passing of this Bill, that there was a necessity for the declaration of martial law. This is surely prejudging the question, it is tying the hands of the Committee, it is not fair. My submission is that on this ground you are prejudging the question. The Committee are in possession of the seizure, as lawyers call it, of this matter. This Council has no jurisdiction to go into the matter at this stage. Of course as the matter has been referred to the Committee, it would not be right for the Council now to go into the question, as to whether the declaration was necessary or legal, or whether it was properly carried out. My submission is this that, in view of this and in view of the complaint that martial law was improperly and illegally declared, I think we ought to state the case on which this demand is made. My Lord, what is the law under which this martial law has been declared? It is the Bengal State Offences Regulation, X of 1804. What are the conditions under which this Regulation can be enforced? The Preamble says that there are two conditions, in the first place, it must appear that the British Government is at war with any other power, or that there was a state of open rebellion in the country. These are the two conditions which give jurisdiction to the Government to enforce this Regulation in any place it wishes. Nobody will contend for a moment that at the time this declaration was made,

the British Government was at war with any other power. Then we have to fall back upon the second condition, namely that there was a state of open rebellion in the country. On what is this condition based? What is the proof that there was open rebellion in the country at the time? My Lord it is well known that after the Rowlatt Bill was passed in the teeth of opposition from the Indian members of this Council and the country Mr Gandhi as a last resort, declared *Satyagraha* or passive resistance. We need not go into the question, whether it was wise or not; it is a fact that he did so and the 6th of April was appointed as the *Satyagraha* day to be observed in the country as a day of humiliation and prayer on which all business was to be suspended. We know that that was done in the country and that there was no disturbance anywhere. Now what about the Punjab? Was there any response in the Punjab to this appeal of Mr Gandhi's? Now before going into the question, I may tell the Council that on the 7th April His Honour the Lieutenant Governor Sir Michael O'Dwyer held a Durbar and delivered a speech in the course of which he said: From the Prince's palace down to the peasant's hut I find I can meet Punjabis of whatever class or condition without any suspicion or mischief. That was on the 7th April. Surely this language could not have been used by the ruler of the Province if there was anything like rebellion there. It is inconceivable that such language could have been employed if there was anything indicating in the remotest degree that there was rebellion in the province, not only at that time but even a week after when martial law was declared. But what happened when this appeal of Mr. Gandhi was published, how was it received in the province? There is an account published in the *Civil and Military Gazette* a newspaper which is not as a rule friendly to Indian aspirations and public movements. It is there stated that between 1 and 2 P.M. crowds had collected in the city and moved towards the Bradlaugh Hall where a meeting took place to protest against the Rowlatt Bills. This meeting was held between 5 and 6 P.M. the proceedings were orderly and no disturbances occurred in the city or outside the hall. Then what took place at Lahore on the 6th of April?

We find moreover my Lord, that it was not only at Lahore, but at Ferozepore, Gurdaspore, Hissar, Jullundur, Mooltan, Muzafferpore, Rohtak, Sialkot and Simla, that demonstrations and *hateals* were observed but there were no disturbances. Is that the sign of open rebellion which somebody seems to have discovered in the Punjab? I think my Lord, in a sense it might be said to be rebellion. We know that Sir Michael O'Dwyer was in the habit, both in season and out of season, somewhat aggressively of priding himself that his province was the quietest, the most loyal and the most well behaved of all the provinces in India and from which he was able to drive out the disease known as political agitation. Now these demonstrations in their intensity and widespread character must have shocked His Honour awakened to a grim and unpalatable reality and forced the realization, to him most unwe-

come, that his province was going to be infected, converted to evil ways of the other and vicious provinces. We get an insight, we get some glimpse into his inner thoughts, if we turn to the speech of His Honour which he delivered at the Durbar the following morning when he said this 'that the British Government which has crushed foreign foes and quelled internal rebellion could afford to despise political agitators'. Now what was the occasion for this remark, my Lord? I say that explains the psychology of the subsequent orders and proceedings. Well, I might point out that there were not only these demonstrations in utter defiance of his wishes, almost as a challenge to him, but what is more, the horror of horrors, there was at the time going to grow up what is called the Hindu-Moslem fraternisation. We read in the *Civil and Military Gazette* on the 9th April 'At Lahore there was procession held accompanied by extraordinary scenes of Hindu-Moslem fraternisation. In Amritsar, the procession showed similar scenes of Hindu-Moslem fraternisation, speeches were delivered and votes of sympathy were passed with the Delhi martyrs'. It is exceedingly significant that that was placed as a piece of evidence in a case before the Martial Law Courts as evidence of rebellion. My Lord, this state of things, these demonstrations and *hartals* and these scenes of Hindu-Moslem fraternization certainly were very uncomfortable, and it was felt that something must be done, some steps should be taken to nip in the bud the incipient rebellion in the Province, and we find that the first overt act in this campaign against political agitation was that on that very night Mr. Gandhi, who was then on his way to Delhi on a peaceful mission, was obstructed under the orders of His Honour the Lieutenant Governor at a small station called Kosi, which is in the Punjab territory, and turned back and was escorted to Mr. Gandhi's province, Bombay. Well, that was wired all over the country as the arrest of Mr. Gandhi. What was the result? We know there have been very unfortunate happenings throughout the country. Now, my Lord, it is usual for the Anglo-Indian papers to put down these happenings to agitation against the Rowlatt Act. My submission is, my Lord, that the Rowlatt Act can no more be held responsible for these happenings than the action of Sir Michael O'Dwyer, which was described by Mr. Kali Nath Roy as an act of 'blazing indiscretion' for which he was sent to jail for three years. Well, my Lord, let us see what happened in the Punjab. I say the news of the arrest of Mr. Gandhi was received at Lahore on the afternoon of the 10th. Let us see what happened there. But there is a difficulty here to find out what happened. On the following morning, the 11th, Sir Michael O'Dwyer acting under the Defence of India Rules, passed an order muzzling the Indian press, prohibiting the publication of any account of what took place on the previous day. Now why this anxiety to keep the outside world in the dark as to the happenings at Lahore on the 10th? Therefore, the public outside Lahore, we, had to rely on the Government Communiqués and the accounts given in the Anglo-Indian press, for the events that took place at

Lahore and other places on the 10th. Of course, the Anglo-Indian press were evidently able to be above the orders of Government with regard to the publication of accounts of any events. The Government Communique is this: This is dated the 12th April:

Lahore. The shops in the city and its vicinity were closed and a noisy crowd endeavoured to force its way towards the Civil Lines. This crowd was met with a small police detachment near the High Court, and on its refusal to abandon its progress was dispersed under the orders of the District Magistrate by musket fire. At a later hour in the evening, the police were again compelled to fire on a disorderly crowd which attacked them with missiles in the vicinity of the Lohari Gate. Two persons were killed in the day's firing and about four others wounded.

These are the words of the Government Communique, and the account that was published in the *Civil and Military Gazette* was this:—

A crowd collected in the bazar which rapidly grew and started coming down Anarkali. Then the mob which had assumed a very threatening attitude proceeded down the Mall. By this time, the police were out in force, and a party of them stopped the mob. The Deputy Commissioner then arrived, and seeing the seriousness of the situation and the impossibility of stopping the mob by any other means gave the order to fire. This produced some result, for the crowd went back and were forced up Anarkali Bazaar. Then they formed at the top of the Bazaar where they had to be dispersed again by fire.

The arrangements throughout were in the hands of the civil authorities as, thanks to their immediate and effective action, the necessity did not arise to ask the military to take charge.

But the *Pioneer* went one better and in its account on the 13th it says:—

The European residents, already disturbed by the news from Amritsar had to face a serious situation created by an infuriated mob which was bent on mischief. *Large forces of military and the police promptly dealt with the outbreak, and on more than one occasion had to fire on the mobs.* Strong action resulted in the restoration of order and the city is now being patrolled. Bockshot cart ridges were used.

"But on the following day it says:—

Bockshot was supplied to the police *except for 5 rounds of ball issued by mistake*

"On the 20th there was another Government Communique to contradict what appeared in the *Leader* about this, and this is what is said —

'The facts are that despite orders previously promulgated forbidding processions, a large crowd, probably of some thousands, marched from the city up the Mall, forcing back a small body of police which tried to bar their progress. The crowd consisted of city rif-raff and students, but the latter were grown up and not boys. The crowd was making its way to the civil station and would undoubtedly have committed excesses such as marked the Amritsar occurrences, had it been allowed access to the European quarters'

"These are all the accounts published by Government and the Anglo Indian papers of the occurrences in Lahore on the 10th. What do they say? Never mind for the present that there are serious contradictions. Take the account substantially as it stands. I ought to mention, my Lord, that there is another fact. The *Civil and Military Gazette* on the 16th of May stated that the Deputy Superintendent of Police was struck on his head which had to be bandaged. Now it is remarkable that this incident is not mentioned in the Government Communiques, nor in the Associated Press telegram. As a matter of fact, this police officer was struck, his head was broken, there was a split. How is it that this incident does not find a place in the Government Communiqués? The fact of the matter is that, as was discovered by the *Civil and Military Gazette* later, it was 'caused by a policeman by mistake' and not by the mob, that is why it was not mentioned by the Government Communique. Now take the accounts as they stand, what do we find? That a mob, unarmed, it must be remembered, unarmed, 'of city rif raff and students,' to quote the words of the Government Communique, were making their way from the city towards the Mall. What happened? It does not appear that any serious attempt was made to persuade the mob to go back, that civil force was attempted. But from a sense of panic, the order to fire was given and there were casualties. What did they do? It is not stated anywhere that they did any injury to any one or destroyed property on their journey from the city to the Mall. It was asserted in the latest Government Communique that they would have done mischief, but why is this assumed, it is not stated that up to then anything was done by that mob. Well, what were the objectives of the mob? Was an inquiry made to find out why this mob was proceeding towards the Mall? It was unarmed it must be remembered. Well if the object was to do any wrong, to break the law, is it conceivable that 'this rif-raff and students' would go unarmed, or would refrain from doing anything in the city or in their journey up the Mall? No inquiry was made as to why they were journeying to the Civil lines. If an inquiry had been made it would have been found that their object was nothing more than to interview His Honour himself and to intercede with him and ask him to withdraw that order against Mr Gandhi. But what happened? This march

of the unarmed mob of city 'riff-raffs and students' was the first overt act of rebellion. Anyhow my Lord, whatever happened then, it was put down in the course of an hour if it was a rebellion, it was quieted in an hour's time. We read in the Government Communique that by 8 P.M. the city was quiet; after that time no further disturbance occurred. Thus in an hour's time this rebellion was put down.

Then what happened on the following day on the 11th? We find again from the Government Communique that on the 11th everything was quiet. Well, is that a sign, my Lord, of any rebellion at Lahore at the time? The solitary instance mentioned is that a mob of some three or four hundred people, unarmed, city riff raff and students' were proceeding towards the Mall, and assuming that they were rioters, they met with their deserts because they were fired on by the armed police and there were some casualties, but after that every thing was quiet and there was nothing on the following day. Then, on the 12th, what happened? On the 12th the Government Communique says:—

On the morning of the 12th troops passed through Lahore city and occupied certain commanding points. At one point only the crowd *obstructed the passage* of the troops and brickbats were thrown. The police accompanying the march, under the orders of the District Magistrate, dispersed the crowd, two being killed and as many were wounded.

"And the *Civil and Military Gazette* on the 13th says:—

The rendezvous for the march of troops and police through the Lahore city was the cross roads outside the railway station at 9-15 A.M. The crowd in front of the fort in Minto Park had to be forced back and the cavalry dispersed it without using their lances. The crowd, however, came in again behind *in rear of the cavalry* and the Deputy Commissioner ordered a detachment of police to get behind the cavalry and fire.

And there was an Associated Press telegram which says that more than a dozen had been wounded, some of them having received serious wounds. One of them who received 9 wounds on the chest died this afternoon. Nearly 10,000 people attended his funeral. The deceased was a student of the 4th year class and had come here to sit for the University examination.

Now my Lord, as to the assumption that brickbats were thrown at the military as stated in this Communique, it will be seen, neither the *Civil and Military Gazette* nor the Associated Press telegram corroborates this. How ever assuming that this was done, would that constitute rebellion, or would that make it a clear sign or proof that there was rebellion in the city so that you would have to declare martial law? Has it been inquired into by whom and under what circumstances these brickbats were thrown? There is a discrepancy again. One account says the cavalry were obstructed in front and

brickbats were thrown, whereas another account says that when they passed through the city the mob came behind and threw brickbats. However, leave that alone. Does that alone constitute a state of rebellion in the city?

"My Lord, I have tried my best to see if there was any other case of rowdism. I said there was no account published in the Indian papers or any other information than the Government Communiques and the accounts in the Anglo Indian papers and there is no allegation of any of this unlawful act anywhere

"My Lord, beyond these two incidents, one on the 10th and one on the 12th, I have not come across anything mentioned in the papers, as having taken place in Lahore. Well, I should feel grateful if the Hon'ble the Home Member will inform the Council if there was any other occurrence in Lahore, which justified the Government in declaring martial law. After this, my Lord, on the 14th, martial law was declared. We do not find on what grounds this order was based. Of course, attempts were made by interpellations in this Council to find out the grounds in justification of martial law, but they have not been answered. Martial law came into force at midnight between the 15th and 16th. Several days later, by another Ordinance, No. IV, this martial law was given retrospective effect so as to cover everything that was done from the 30th of March. My Lord, it is a serious question as to whether this can be done under the law. The matter has been placed before the Privy Council in the appeals which have been admitted, and we shall know the decision of their Lordships. Another question, my Lord, in this connection is, whether this could legally be done. We find, my Lord, that Lord Wellesley, in whose time this State Offences Regulation of 1804 was passed, issued instructions for the guidance of the Local Governments and therein it was stated (Circular of the Marquis of Wellesley, dated the 11th April 1805) 'Even if a person or persons charged with any overt acts of rebellion specified in Regulation X of 1804 shall be apprehended by any military officer, when not in the actual commission of offences of that description, they are to be delivered by the military to the civil power.' That was laid down in the Instrument of Instructions regarding this Regulation, and the Regulation itself shows that only charges against persons caught in *flagrante delicto*, that is red-handed, could be tried by martial law, and that was expressly declared in the Instrument of Instructions. Furthermore, my Lord, it appears that the Government of Bengal consulted the Advocate General, Mr. Spankie,* at the time, and his opinion was to the same effect. Now, my Lord, this question becomes a serious one as to whether retrospective effect could be given to this Regulation by Ordinance No. IV. My submission is that here also the matter is before the Privy Council which has got seizin of the matter, and if you ask this Council now to decide, it would be wrong; you cannot go into this before their Lordships have decided the question as to whether martial law was rightly or lawfully given retrospective effect to by Ordinance No. IV. And this Bill is based upon the assumption that

*See Appendix IV, pages 233—238, *ante*.

the order was legal, because it is stated in the Bill that anything done between the 30th of March and the date of the passing of this Bill will be protected. Therefore, my Lord taking all these questions into account it would not be right to ask this Council to pass this Bill at this time. We must wait for the finding of the Committee, we must wait for the decision of the Privy Council on the questions raised as to the legality of the promulgation of martial law and the giving of retrospective effect to it. Well, let this Committee have a free hand to go into the matter sift out facts, find out what was done and then it will be time enough to go into the question of protecting the officers of Government who had carried out the instructions under martial law. The Hon'ble the Home Member has raised the point that, even assuming that martial law was not properly or legally promulgated the question of protecting the officers of Government remains, because it is no fault of theirs that they were called upon to carry out these orders. Now my Lord everything depends upon what the orders were and how they were carried out. You cannot say beforehand that you will pass a general law that every officer is protected for anything he did under any order given. Well so far as that matter goes, that is already provided for under the existing law. Under the Penal Code if a public servant carries out an order given by a superior whether legal or illegal, how far he is bound to carry it out is provided for in the general law. If the Committee finds out any specific instances not covered by the existing law then it will be time enough to consider how far that law has to be supplemented. My submission is that at present we have got a general law. Then, my Lord, even in England instances have occurred where officers commanding the military have had to undergo prosecution for excess of zeal in discharging their duty when their services were requimoned. In connection with the riots in County Clare in Ireland in 1852 a jury brought in a verdict of guilty of murder against the soldiers who had fired on a mob but for which they would have lost their own lives. So, I submit, my Lord, that it is premature now to consider this point. The whole thing will depend upon what orders were given, how those orders were carried out. At present all that we need consider is provided for in the general law.

Then, the other point raised by the Hon'ble Sir William Vincent is that, if you are to wait, there will be actions brought against Government officers and they may be decreed. My submission on this is that it is purely imaginary. If any action is to be brought by any man for damages against any officer of Government for anything done during the time martial law was in force, we know that probably at first notice will be given to Government or the Government officer concerned, and after the expiry of the statutory period only can a suit be filed. The assuming that no notice is given but suit filed, the mere fact that a suit is filed need not frighten us. Civil suits, it is well known, are not disposed of as expeditiously as criminal cases. Well, a plaint is filed then a date will be fixed for the defendant to enter appearance

When I first heard of the Indemnity Bill, I was under the impression that we were to be asked to indemnify all actions of Government officers, whether they were done in good faith or not. Till I had seen the Bill, I was under this impression and as such I felt that I could not give support to such a measure, knowing as I do some of the inconveniences and indignities that some of my countrymen have suffered during the currency of the martial law in my province. I have not the remotest inclination to defend those who have broken the law and I have no hesitation in saying that no Government can afford to let such actions go unpunished. No man who loves peace and order could possibly side with such people who break the law and commit atrocities which cause feelings of horror and contempt in the minds of right thinking and law abiding persons. But, on the other hand, one cannot shut one's eyes to some of the doings in my province. My Lord this, however is not the place to talk of those things. So I would not touch that point at all, as I believe and as I think that they are to be sifted into by the Committee of Inquiry that has been appointed by your Excellency. On the other hand, I would not withhold protection to those officers of Government who have done their duty during these trying times conscientiously and whose actions have been taken in good faith and in a reasonable belief that they were necessary for the maintenance of law and order in the country. I understand that after martial law an indemnifying measure has always been enacted. Such a measure was passed in 1860 in India. I am not a lawyer but I am told that that measure was of a more severe nature and went much further than the one introduced to-day. I am also told that indemnifying measures have been passed in other countries also such as South Africa and nearer home at Ceylon. I would therefore be prepared to give my assent to the measure before us to-day; but I want to be assured fully that Government has no intention to afford protection to those who have acted against the strictest sense of justice and against good faith. Though personally I have no doubt on this point and I am sanguine that Government have no intention of that sort, but an assurance of this nature will satisfy public opinion in the country. One thing more, before I give my assent to the measure before the Council, I would like Government to agree and concede that all cases tried under martial law will further be examined and that wherever injustice is found to have been done, those who are detained in jails will be given their liberty. I am glad that the point has been conceded and that two High Court Judges will revise these judgments and I thank Government for this. I have no wish to ask any leniency for those who have committed atrocities; but on the report of the Committee of Inquiry I would suggest that amnesty be granted, as I think that many of these unfortunate persons have in the heat of the roused feelings been led astray from paths of righteousness and of their duty as law-abiding citizens of the Empire. With this assurance that the Act does not white-wash all actions done in bad faith as against good faith and with the promise of a further reconsideration of the cases tried by martial law courts, I would give my assent to the measure before the Council. I have avoided making any mention

and the peace of this Kingdom and to suppress and to put an end to the said rebellion, apprehended and put into custody and imprisoned several criminals and several persons who they suspected might disturb the publick peace or foment or promote riots, tumults, rebellions or evil designs against the Government; and also seized and used several horses, arms and other things and also pressed several horse carts and carriages for the services of the publick; and did for the purposes aforesaid enter into the houses and possessions of several persons and did quarter and cause to be quartered divers soldiers and others in the houses of divers persons and did divers acts which could not be justified by the strict forms of law *and yet were necessary and so much for the service of the public that they ought to be justified by Act of Parliament* and the persons by whom they were transacted ought to be indemnified

Be it therefore enacted etc.

Now my Lord, your Lordship will see and the Council will see that the essential point of this enactment is that there was a rebellion which had to be suppressed and put an end to Secondly that Parliament expresses itself satisfied that the act which had been done and which could not be justified by the strict forms of law were yet necessary and that they ought to be justified by an Act of Parliament, and that the persons who committed them ought to be indemnified. That establishes the cardinal principle which underlies legislation of the character which is now before the Council. It is a principle which was re-enacted in 1745. There was a second Pretender the late Pretender's son Charles Edward. He tried to invade England—that was in 1745. This time again 6000 Highlanders joined his forces and later on the number rose to 9000. There were regular pitched battles fought. Several members of the Scottish peerage and others joined the rebellion. There was regular war and the King's loyal subjects fought against the enemies of the King and defeated them. That was in 1745. It was necessary after the rebellion had been suppressed to introduce an Act of Indemnity. This Act, Chapter 20 of George II. ran as follows:—

An Act to indemnify persons who have acted in defence of His Majesty's person and Government and for the preservation of the publick peace during the time of the late unnatural rebellion and disorders and others who have suffered escapes occasioned thereby from vexatious suits and prosecutions.

Whereas during the unnatural rebellion which began in or about the months of July or August in 1745 and still continues, divers Lieutenants, Deputy Lieutenants, Justice of the Peace, Mayors, Bailiffs of Corporations, Constables, and other officers and persons well affected to His Majesty and his Government, in order to pre-

Now the preamble recited:—

Whereas on the second day of June, in the year one thousand seven hundred and eighty a great number of disorderly persons assembled themselves together in a riotous and tumultuous manner near to both Houses of Parliament, and possessed themselves of the Avenues leading to the same the said Houses being then sitting, and there committed great Acts of Outrage and Violence to many of His Majesty's subjects; and afterwards proceeded to attack the Houses of some of the Publick Ministers, of Foreign Princes and States, residing at His Majesty's Court, and to break into the Chapels belonging to such Publick Ministers, and to set Fire thereto and continued riotously and tumultuously assembled for several Days and Nights; and during that Time attacked and set Fire to the Gaol of Newgate the King's Bench Prison the Prison of the Fleet, and set at liberty the prisoners therein respectively confined, and broke other Gaols and Prisons, and set at liberty the prisoners confined therein and set fire to, and pulled down the Dwelling houses of divers of His Majesty's peaceable subjects, in several Parts in and about the Cities of London and Westminster and Borough of Southwark and burnt and consumed the Materials and Furniture of the same, and did other Acts of Outrage and Violence; and whereas divers Magistrates and others have exerted themselves for the suppression of the said Riots and Tumults, and for putting an End to the said Outrages, and for restoring and preserving the Publick Peace, and on the Occasions, and for the Purposes aforesaid have done divers Acts which cannot be justified by the strict Forms of Law and yet, were necessary and so much for the Preservation of the Lives and Properties of His Majesty's Subjects, and the Publick Safety and Peace, that they ought to be justified by Act of Parliament, and the Persons by whom they were transacted ought to be indemnified; be it therefore enacted.

Now my Lord, these enactments clearly lay down that the legislative body which is to give its sanction to the acts which were performed during a time of trouble were necessary for the suppression of a rebellion or riot which amounted to rebellion and that they were so very necessary that the legislative body ought to justify them and indemnify those who had taken part in them. It is not every ordinary riot which would come in the category of the riots mentioned there. It must be a riot which, as Lord Halsbury points out in his article on the Laws of England, must be a riot or rebellion amounting to war. This is what he says in Volume VI of the Laws of England:—

As the source and fountain of justice, the Crown may issue such Commissions to administer the law as are warranted by

the common or statute law But it may not, without authority, establish Courts to administer any but the common law, and it may not, it is said, grant the right to hold a court of equity. The Crown may not issue Commissions in time of peace to try civilians by martial law but when a state of actual war, or of insurrection, riot or rebellion amounting to war exists, the Crown and its officers may use the amount of force necessary in the circumstances to restore order, and this use of force is sometimes termed martial law When once this state of actual war exists, the Civil Courts have no authority to call in question the actions of the military authorities, but the powers of the military authorities cease and those of the Civil Courts are resumed *ipso facto* with the termination of the disorder'

"My Lord, the point on which I wish to lay stress is that there must be either a rebellion or insurrection or a riot amounting to war to justify resort to martial law These are the general principles which the Laws of England have laid down So far as India is concerned, the matter rests on a more definite footing The Government of India is empowered under Regulation X of 1804 to establish martial law in certain circumstances Now it is essential to draw attention to the language of that Regulation, because your Lordship professedly acted under that Regulation in declaring martial law in the Punjab My Lord, that Regulation was passed in 1804, and it ought to be remembered that it was passed at a time when the British Government was trying to establish its power in this country, when there were many small States trying to prevent its establishment of power in this country. That was the period during which this Regulation was passed Little did I think, my Lord, I venture to say, that the authors of this Regulation had imagined that this Regulation would be resorted to in the Year of Grace 1919 after the great war had been won However, the Regulation is as follows —

'Whereas, during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government, and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government in any part of the British territories subject to the Government of the presidency of Fort William, the Governor-General in Council shall declare and establish Martial Law within any part of the territories aforesaid for the safety of the British possessions, and for the security of the

lives and property of the inhabitants thereof by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same or in the act of openly aiding or abetting the enemies of the British Government within any part of the territories above-specified the following Regulation has been enacted by the Governor General in Council to be in force throughout the British territories immediately subject to the Government of the presidency of Fort William from the date of its promulgation.

Now my Lord, it is clear that this Regulation can only be justly put into force when there is either a war or open rebellion against the authority of the Government. Your Lordship in establishing martial law by the notification dated Simla, the 14th April 1919 consequently said that —

Whereas the Governor General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the province of the Punjab; now therefore in exercise of the power conferred on him he is pleased to make and promulgate the following Ordinance

Now my Lord, section 2 of the Bengal State Regulation provided that where the Governor General was so satisfied it was open to him to establish martial law and that section also repeated that it was during the existence of open rebellion against the authority of the Government, or who may have borne arms in open hostility to Government that martial law should be established. In the notification dated the 14th April 1919 your Lordship was satisfied that a state of open rebellion against the authority of the Government existed in certain parts of the province of the Punjab. Now my Lord, the public have not been told what were the circumstances which constituted a state of open rebellion in Lahore. I gave notice of certain questions and I wanted to find out what it was that constituted a state of open rebellion. But unfortunately the Government told me that the questions could not be answered in view of the fact that an inquiry had been ordered and that it would not be in the interests of the public that these questions should be answered. Now my Lord I submit that it was essential, and it is still essential, first to inform the Council when the Executive Government have come to the Legislative Council to ask for their support to ratify acts which are done under an Ordinance promulgated by the Governor General or the Governor General in Council, what were the circumstances under which martial law was proclaimed. I asked whether the Government would be pleased to lay on the table the correspondence which passed between them and the Punjab Government leading to the declaration of martial law in the Punjab. I also asked whether the Government would be pleased to state the facts and circumstances which in its opinion constituted a state of open rebellion against the authority of the Government in certain parts of the Province of the Punjab within the

meaning of Regulation X of 1804 between the date on which the Ordinance was promulgated by the Governor General and the date on which open rebellion was declared to exist in the part of the Punjab to which the Ordinance had been applied. I am sure your Excellency will recognise that these questions sought to do nothing except what was right in the circumstances. I had heard that the *Pioneer* had proclaimed that an Indemnifying Bill was going to be introduced in this Council, and I gave notice of a question an answer to which it would be necessary to have in order that I should be able

The Hon'ble Sir William Vincent —“ My Lord may I rise to a point of order? Is it in accordance with the practice in this Council for an Hon'ble Member to refer in public to a question which has been disallowed? Is it not a fact that the Hon'ble Member has been reprimanded for doing this on a previous occasion?”

The Hon'ble Pandit Madan Mohan Malaviya —‘ My Lord, I do not know of a reprimand and I do not recognise any such reprimand. I am entitled on a Bill before the Council to draw attention to every fact in the Council. I was perfectly right, I submit, to do what I did

“ Now my Lord, I asked for information, and, as I said before, in answer to my question I was informed that the Government could not answer these questions and numerous other questions of which I had given notice, as a Committee of Inquiry had been constituted or was going to be constituted and these matters would be dealt with by it. Now, my Lord, I would not complain of these questions not being answered, if the Government also recognised the fairness the wisdom of staying its hand until these facts had been placed before the Committee of Inquiry, and until the public had come to know of them. Your Lordship will kindly remember that since this unfortunate declaration of open rebellion in the Punjab, which among other evils contributed to the Afghan war, since the declaration of this open rebellion and the establishment of martial law in the Punjab, the Punjab Government shut the rest of India and the world out from all knowledge of the events which were happening in the Punjab. My Lord, not only were individuals not permitted to go in and expose the events that were taking place there to the light of day, but even the representatives of many respectable well-established leading papers in the country, and a man himself a man of peace and of humanity, Mr C F Andrews, when he asked permission—I hear a little laughter. My Lord, I do not know what the laughter is about. If it is to say that Mr Andrews is not a man of peace and humanity, I am sorry for those who think so. Now, my Lord, I saw a man of Mr Andrew's antecedents and character, devoted to the service of his fellow men, who goes to different parts of the world in order to serve his fellow men, who was appointed as the representative of several leading papers, who sought permission to go to the Punjab, even after he had paid a visit to Simla and was on his way to Lahore, was stopped at Amritsar and disgracefully dealt with and turned back from the Punjab. Now, my Lord, other papers were not

allowed to send their representatives to the Province and other public men were not allowed to go there. The result was that we did not know what had happened. From the information that we had, the All India Congress Committee met and sent a long cablegram to His Majesty's Secretary of State in which they drew attention to the seriousness of the situation.

Now my Lord, in that cablegram the All India Congress Committee, which met on the 20th and 21st of April at Bombay passed among others the following resolutions :—

Resolved that the All India Congress Committee deplores and condemns all acts of violence against person and property which were recently committed at Amritsar Ahmedabad Viramgaum and other places, and appeals to the people to maintain law and order and to help in the restoration of public tranquillity ; and it urges upon the Government to deal with the situation in a sympathetic and conciliatory manner immediately reversing the present policy of repression.

Resolved that the All India Congress Committee places on record its strong condemnation of orders passed under the Defence of India Act by the Government of the Punjab, Administrator of Delhi and by the Government of India against a person of such well known noble character and antecedents as Mr M. K. Gandhi. The Committee cannot help feeling that if these orders had not been passed some of the regrettable events which followed them, may not have happened. The Committee requests the Government of India to withdraw its own order and to ask the Local Governments in question to do the same.

Then, my Lord, there was a cablegram which I sent to His Majesty's Premier and to the Secretary of State for India. I will read it as it stands without articles, etc

All India Congress Committee desire most earnestly to represent to His Majesty's Government intense gravity of present situation in India, real causes and need for change of policy pursued at present. While deploring and condemning popular excesses which have occurred in some parts of country and which popular leaders have everywhere used their influence not unsuccessfully to restrain, Committee urge impartial consideration of circumstances which have so aggravated and embittered feelings of people throughout country as to make such outbreaks possible. Resolution of Government of India, dated 14th instant, describing present situation as arising out of Rowlatt Act agitation makes only partial statement of case, Undoubtedly intense universal bitterness of opposition to Rowlatt Act forced through legislature by official votes against unanimous

protest of all non-official Indian members and in face of unparalleled opposition throughout country was immediate cause of recent popular peaceful demonstrations but subsequent excesses were provoked by needless and unjustifiable action of Government of India, and Punjab and Delhi Governments against so revered a personality as that of Mr. Gandhi and against other popular leaders For complete understanding, however, of present discontent and its causes other important factors must be considered '

"Then, my Lord, after dealing with the causes which included India's services during the war, and the attitude of European and Anglo Indian officials towards the Reforms and the fate of Turkey and the Rowlatt Bills, the Committee went on to say —

'In such circumstances the two Rowlatt Bills were introduced and the principal one forced through Council in spite of unanimous opposition of non-official Indian members, appeal for postponements and reconsideration and warnings of agitation that would inevitably follow throughout country which was stirred by this measure and uncompromising attitude of Government in degree unparalleled in history of country Committee here cannot enter in detail as to justifiable apprehensions caused by passing into law of this Act.

'They are content to represent that it is total distortion of facts that an agitation against a measure placed on Statute-book in time of peace depriving subjects under any circumstances of sacred right of free and open trial and otherwise restricting fundamental liberties and depriving accused persons of normal and essential safeguards designed for protection of innocent persons should be regarded as an unreal agitation engineered by political agitators for their own ends Committee have no authority to discuss merits of passive resistance movement led by Mr Gandhi but would emphasise that nothing but feeling of high souled patriotism and intense realisation of injustice involved in passing of this measure could have actuated man of his saintly character and noble record Committee submit that so far as facts are publicly known no violence had anywhere been committed by the people until after the arbitrary restrictions placed on Gandhi's movements leading to his arrest and forcible deportation without any announcement about his destination while he was on his way to Delhi with object of pacifying people after unfortunate episode there on March 30th. Grave allegations were made that authorities in Delhi unjustifiably fired on crowds killing and wounding several. Government of India have ignored demands for inquiry into this and have published *ex parte* statement of Local Government exonerating local authorities on unconvincing statements Had Gandhi been allowed to proceed Delhi Committee believe he would have restored normal

conditions. Government on contrary by his arrest and deportation provoked outbreaks in Ahmedabad and Viramgaum. Outbreak had become imminent in Bombay also, but it was averted by wise action of authorities in restraining police and Military and efforts of Gandhi and other leaders pacified people and restored quiet.

Committee invite attention to the contrast between the rapidity with which tranquillity was restored in Ahmedabad by presence of Gandhi, his co-operation along with that of other leaders with authorities and continuance of disorders in Punjab where reckless and horrible methods of repression under Martial Law such as public flogging of citizen in streets, dropping of bombs from aeroplanes, wholesale firing on people assembled in streets, have been resorted to. These methods of repression have created horror and resentment throughout country.

Committee recognise need for strong measures to deal with popular violence where occurring and popular leaders and bodies and all public men are ready to co-operate with Government in putting down popular excesses and violent movements against authority but use of such methods as have been in force in Punjab antagonise feeling of people towards Government and sow seeds of bitterness and distrust.

Committee most earnestly urge His Majesty's Government to intervene and put an end to these methods, and to order the appointment of commission of officials and non-officials to investigate causes of discontent and allegations of excesses by authorities in repressing popular outbreaks.

My Lord, that was submitted on the 28th of April this year and it prayed that the Government should appoint an early Commission.

Committee strongly urge His Majesty's Government to consider that popular discontent has been provoked by causes set forth above. At Amritsar disturbances followed immediately on Sir Michael O'Dwyer's action in arresting and deporting Dr. Mitchell and Dr. Satyapal. Committee most earnestly represent that situation cannot be dealt with alone by repression and attitude of sternness towards people displayed in the action of Indian Government of 14th instant which gives free hand to local Governments to employ every weapon in armoury of repression and is sadly lacking in spirit of conciliation. Situation calls for highest statesmanship which will deal with it in spirit which animated British Government and Indian people in their recent struggle for maintenance of liberty and freedom of peoples from despotic domination and not in a mood of ruthless repression.

"All India Congress Committee feel that they can appeal with confidence to His Majesty's Ministers to consider this representation with sympathy and to take definite steps forthwith to reverse the policy of repression and to satisfy Indian feeling with regard to the Muhammadan question, the reforms and repeal of Rowlatt Act Committee respectfully submit this action alone will secure real peace and contentment in the land.'

(At this stage the Council adjourned for Lunch)

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, the point to which I was drawing attention when the Council rose was whether there was open rebellion in Amritsar and Lahore and certain parts of the Punjab when this notification was published. Because, my Lord, the Bill starts with saying, it assumes, that there was open rebellion and all the acts which took place subsequent to the declaration that there was a state of open rebellion are based upon and flow from it, so to say. Now, my Lord, I have drawn attention to the general situation which existed in the Punjab and the country at about the time when this declaration was made. I have drawn attention to it in order that a bird's-eye view may be presented of the situation as a whole, and I have shown that the All India Congress Committee drew the attention of Government to the fact that the disorders which had taken place had their origin not in anything in the attitude of the people so much as in the attitude of the authorities who had to deal with the people. Now, my Lord, I want to enter somewhat in detail into the circumstances which existed then. I consider it essential to do so in order that this cardinal fact, this key-stone of this whole unfortunate edifice, which constituted the establishment of martial law and its result, should be fairly and squarely fixed at its proper place.

"Now, what happened was, my Lord, that in the last Session of this Council the Rowlatt Bill was introduced. That Bill was opposed practically unanimously by all the Indian members, and Government was urged to postpone legislation until another Session. The Government did not see fit to yield to that request. Agitation followed in the country and that agitation took one particular shape by the suggestion of Mr. Gandhi. That shape was that the people should express their dissatisfaction with the carrying out of the Rowlatt Act against the wishes of the people by observing a day of humiliation and prayer. My Lord, it is a pity that this action of Mr. Gandhi was not appreciated by all the Local Governments equally well, there were some, I am thankful to say, which appreciated it at its proper estimate and allowed the people to express their injured feelings in the way Mr. Gandhi had suggested. As a result of that suggestion, on the 30th March last a *hartal* was observed, that is, a general closing of the shops was observed at certain places and also at Delhi. At Delhi somewhat unfortunate events took place. Some people tried to put pressure upon some confectioners at the railway station to

persuade them to close their business that day and a crowd assembled, and what took place there led to firing. I do not want to go into greater detail in regard to this matter but I want to indicate the general fact that the mob was there and as a consequence of what happened, the firing that took place people's minds were more embittered. That was the first blunder committed. Then, my Lord, a second time firing took place at Delhi and that also gave cause for more resentment. But notwithstanding this unfortunate firing and the loss of life, and the wounds which it inflicted upon some of the people, it is a fact, which cannot be gainsaid that the 6th April 1919 which was the great *Satyagraha* day throughout the whole country was observed throughout the country peacefully. No untoward incident has yet been alleged to have occurred during the observance of that *Satyagraha* day. Now what, my Lord, was the *Satyagraha* day? Hindus and Mussalmans, and Indian Christians, and generally the whole Indian community agreed unanimously to abstain from doing any business that day closed all their business shops, undergoing a great deal of loss in order to show the general resentment of the Indian community at the attitude of Government, and as a step which might persuade the Government to reconsider their position. Now my Lord that passed off well, as I say and Local Governments other than the Panjab Government did not find in the demonstrations that took place any occasion for embarking upon a policy of repression. But not so the Government of the Panjab as it was then constituted. On the 3rd and 5th April the Government of the Panjab issued orders against Dr. Satyapal and Dr. Kitchlew forbidding them from making speeches in public. These two gentlemen submitted to that order and nothing untoward happened in Amritsar in consequence thereof. The 6th of April was observed as a *Satyagraha* day in Amritsar as well as in other places, and the day passed off peacefully there too. Three days after there was the *Ram Navami* procession in Amritsar that is the day on which Rama's birth is celebrated. It is a great day with the Hindus, but this time Muhammadans and Hindus united with each other in celebrating that day. That is to say Muhammadans came forward to express their full fellow-feeling with the Hindus in observing that day and there were great processions in Amritsar and the Deputy Commissioner of Amritsar witnessed these processions from the Allahabad Bank, where he was, I am told, sitting at the time. My Lord, there is absolutely nothing against the Government in that procession. I am told that while the people shouted out *Hindu Mussalman ki jai* and *Mahatma Gandhi ki jai* they also shouted out *King-Emperor ki jai*; it was a perfectly loyal demonstration and had absolutely nothing to do with any political feeling.

But there was one feeling which is very important and which has its political value, and that was that Hindus and Muhammadans acted towards each other in a friendly way in which they had never done before in the history of Amritsar. Ordinary observances and caste restrictions and rules were put aside and their fraternising was a matter upon which every reasonable man,

every God loving man and man-loving man ought to rejoice. But on the following day at about 10.30 A.M. these two gentlemen, Dr Satyapal and Dr Kitchlew, were ordered to be deported from Amritsar. Nothing had happened up to the moment of their deportation which the public is aware of which would justify that order. They had been told to abstain from speaking in public, they had submitted to that order, nothing untoward had happened, there was no agitation which might endanger the public peace in Amritsar, and yet the Punjab Government thought it fit to issue this order of deportation against two men who were at the moment idolised by the people because they were honest and honourable men and the people felt that the orders were unjust orders.

“Now, my Lord, that was the second blunder committed in Amritsar. And what was the attitude that was behind that blunder? While other Local Governments noted the fact that public feeling was incensed against the attitude of the Government in the matter of the Rowlatt Bill, they thought it fit to allow that feeling to have its free and full expression.

“The Lieutenant-Governor of the Punjab, on the other hand, thought he must teach a lesson to those who were agitating. In a speech delivered from his seat in the Legislative Council he threatened action and also expressed his dissatisfaction. He said he would take very severe action and that threat he carried out unfortunately in the order of deportation. What happened? Before news of deportation was received business was going on as usual at Amritsar, banks were open, other public offices were open, in fact business men were transacting business as usual. When the news arrived there was a general feeling of resentment and sorrow. Shops were closed in a short time. At that time Mr John, the Municipal Engineer, cycled through the city. He found people doing their business as usual, there was nothing to give any indication that trouble was coming, and when he passed through the crowds no one noticed him. He found crowds passing the National Bank, and the Chartered Bank, as also the Town Hall and other public buildings. The crowd went in the direction of the Deputy Commissioner's bungalow, as has been stated in the evidence of officials as well as non officials, their object was to go to the Deputy Commissioner and to request that these men, Doctors Satyapal and Kitchlew, should be released. Up to then the mob showed no signs of mischief, they passed several public buildings without any thought of injuring them. When they reached the Amritsar foot-bridge they found that a military picket barred their proceeding further in the direction of the civil station. Now, at that place the mob was fired upon, they were at that time unarmed, I am told that they did not even have a stick in their hands; I am told that there was no attitude of defiance or violence, and at that time it is possible that the mob might have been gently pressed back, gently and firmly pressed back. It was then that firing was resorted to and, as a consequence the people became incensed, and that some persons then died

and some were wounded. News was taken to the city; this fostered the resentment of the people. Firing was resorted to a second time near this bridge and more persons were killed. The Deputy Commissioner in his own statement, says that before firing took place the mob did not commit any excesses. I have evidence to show that violence was not done before the shots were fired. Now my Lord, Mr Miles Irving the Deputy Commissioner says that the worst that he expected from the deputation was a disorderly demonstration at his house. It is alleged on the side of the people that if this firing had not been resorted to, and if more restraint had been exercised, all the evils that followed might not have taken place. My Lord what happened was deplorable. Infuriated by having some of the mob killed or wounded, a portion of the mob went back to the city saying they have killed some of our men, let us fight them. Up to that time the evidence proves that no harm was done, the mob then rushed back to where fuel is stacked. I have myself seen the stack of wood, they picked up pieces of wood near the railings and then lost their temper returned and committed the foul murders that they did. I submit that these are the circumstances which we should bear in mind in considering what happened. I need not of course express my sorrow for the lives lost; every decent man must regret the fact that Mr Stuart and Mr Robinson and that other Europeans at the railway station were killed. The whole unfortunate affair was finished in the course of two hours. The report in the *Civil and Military Gazette* says that at 5-30 P.M. all was quiet. I shall not go into the question whether the firing was justified or not, but I would draw attention to the fact that the firing having taken place, and the mob having become infuriated, it went into the city to revenge itself by taking the lives of five European fellow brethren. In a couple of hours all was quiet at Amritsar. There was no trouble on the 11th. The people brought back the corpses, the Hindus and the Moslems decided that they should accompany the corpses in honour of the men and buried or burnt them according to their religion. They finished the whole job before 9 or 10. Thousands of people came out to accompany the bier of the unfortunate men who had been killed, and yet not a single untoward incident occurred in Amritsar. After having buried or burnt the corpses the people came back to the city and it was quiet. On the 12th again all was quiet at Amritsar. On the 13th the Seditious Meetings Act was proclaimed in Amritsar. Up to that time all was quiet. I should like any member on behalf of the Government to cite one single fact or circumstance which would show that after 5.30 on the 10th April, when these unfortunate deaths took place, at the railway station and banks, that there was a single incident at Amritsar which could by any stretch of imagination be construed into open rebellion. My Lord what happened on the 13th? It is distressing to think of. On the evening of the 12th a certain number of persons tried to have a meeting held in a certain place in the city very few people attended, but it was announced at the meeting that a meeting would be held on the following day at Jallianwala Bagh. This is a place which is surrounded on all sides by

houses, there are three or four exits to it, the biggest exit is on one side and the smaller exits are not larger than the doors of this hall. I am told that between 16,000 and 20,000 persons assembled there. It was given out that Lala Kanhaya Lal, a very old and esteemed pleader of Amritsar, would preside. Lala Kanhaya Lal told me personally that he never was approached and that he never gave his consent to preside, that this was falsely given out.

"That was a ruse to draw the people to the meeting. Hearing that a man of his position and respectability was going to preside, many people came to attend the meeting. That day also happened to be, my Lord, the *Bysakhi* day.

"The *Bysakhi* day is one of the most important days in Amritsar, and on that day one of the biggest *melas* is held there. People come to Amritsar for the *mela* from long distances, not only from the interior parts of Amritsar, but from long distances, from Rawalpindi and Peshawar. A number of Sikhs and Jais had come to Amritsar for the *Bysakhi* day. These people not knowing that meetings had been prohibited assembled in the Jallianwala Bagh in large numbers, I am told they numbered about 20,000. The *Civil and Military Gazette* states in its report that the people numbered about 6,000. But whatever the number may be the gathering was certainly a very large one. My Lord, when the meeting had assembled, when several thousands of people had assembled, an aeroplane passed over the place where the meeting was to be held, and within half an hour or so of this, came the troops, and while the people were sitting down to hear the lecture which was being delivered by one of the men, the troops came and fired upon the people—and the people say, without giving them any warning or any time to run away from the meeting. Now, my Lord, it has been stated by the Hon'ble the Home Member, that 'the number of persons who had been killed there has been traced to 300.' But from a letter received this morning by me from a friend, I am informed, that the number of deaths which have been traced already amounts to 530 killed and 190 wounded, and among the 530 killed, he gives me the names of 42 boys whose ages range as follows: 1 from 7 months, who was being carried by his father to the place, to 15, 17, 18, 14 and one of 4 years, more than one of 12 years, several of 14 years and several of 15 years. These are the names of the boys who were killed at this meeting. The names of many others might be forthcoming but even if this list is final as I very much wish and hope it may be, even, then, my Lord, the number is appalling to think of and it is also horrible to think of the fact that people assembled at a meeting sitting down to hear a lecture should be fired upon by His Majesty's troops, and when they were running for their lives they should still be fired upon, and that so many of them should be killed in a few minutes' time. Now my Lord I should like the Hon'ble the Home Member with all his reading of history to cite one instance so horrible to think of as the one like the Jallianwala Bagh, and to tell me if any Government has attempted to pass an Indemnifying Bill to justify anything approaching the deeds that were perpetrated in the Jallianwala Bagh.

My Lord, I will go back to Lahore for a moment. I will come back afterwards to the events that followed at Amritsar. But let me say here that even after this butchery in the Jallianwala Bagh—and the Bagh is now called the bloody Bagh—even after this the people did not show the smallest sign of committing any violence. They submitted to these atrocities, they calmly resigned themselves to it, and there is not one single incident mentioned which would justify anybody to describe the state of things in Amritsar even after that event and before it was proclaimed that there was a rebellion in Amritsar as an act of violence or hostility to Government. This was, my Lord, on the 13th of April. On the same day by a notification, to which I have already referred, it was declared that a state of open rebellion against the authority of the Government existed in certain parts of the Punjab, and by an Ordinance this was extended to Lahore and Amritsar which were the first which came in for the operation of this declaration. Now I submit, my Lord with great respect, there is nothing I know of and I have taken pains to verify the facts, to justify the declaration that there was a state of open rebellion in Amritsar on the day that your Lordship was advised that there was rebellion. I will go back to Lahore. Lahore observed the 6th of April as a *Satyagraha* day. The day passed off peacefully. Up to the 10th no untoward event happened in Lahore either. On the 10th owing to the news of Dr. Satyapal and Dr. Kitchlew having been deported there was all this trouble in Amritsar. The same day news was received in Lahore that Mr. Gandhi had been arrested, and deported to a place unknown. I mean to say the place where he was deported was not announced. Now my Lord, Mr. Gandhi, as is probably known not only to my Indian friends but to every gentleman in this country or at least ought to be known, is a gentleman who is held in the highest reverence by millions of people. By his saintly character by his desire not to hurt any fellow man, by his desire to stand up for truth, justice and humanity he has established himself in the affections and reverence of the people to an extent which is not enjoyed by any other of my fellow countrymen. Mr. Gandhi having been responsible for the *Satyagraha* day being observed he had to issue instructions that the day should be observed without any violence, without causing hurt to any fellow men; but certain unhappy events to which I have already referred having taken place at Delhi, public sentiment having been roused by these events, Mr. Gandhi was coming to Delhi to quiet the people and to see that feeling should not be further embittered. While he was on his way to Delhi, the Government of India was advised to issue an order confining him to Bombay and the Government of the Punjab and the Delhi administration issued orders prohibiting him from entering the Punjab and Delhi. My Lord, that was a gratuitous insult offered to Mr. Gandhi. Any Government ought to feel honoured by the presence of a man like Mr. Gandhi within its own jurisdiction, and in asking Mr. Gandhi to keep out from the Punjab and the Delhi province, the administrations of those places showed that they did not like the broadminded view which those at the head of administrations are expected to take in such matters. Well, the result was that as the news was

received that Mr. Gandhi had been arrested and deported, the temper of the people was tried. At Lahore, a mob gathered and they were going towards the Government House towards the Upper Mall, in order, I am told, to go up to Government House to make a representation. They passed several European buildings, they passed several European gentlemen without showing the smallest sign of any desire to hurt anybody. The Europeans who have their shops on the Upper Mall did not find any of their shops injured, not even a pane injured. When they were on the Upper Mall at one place the police wanted to prohibit them from going any further and wanted to turn them back. They did not like to be turned back, but eventually they agreed and they did turn back, and their attitude in going back shows that if firing had not been resorted to, there would have been no evil consequence resulting from the presence of the mob at that place for a little while. A little gentle persuasion, a little firmer attitude, if need be, would have succeeded, that is the belief of a lot of people. Now, my Lord, that having happened, when the mob were going back near Anarkali they were fired upon and certain persons lost their lives. This enraged public feeling, but what happened? I ask your Lordship to note that there is no people on earth that I know of, that I have read of, or heard of, who would have shown their law abiding character better than did the people of Lahore and Delhi where the firing had been resorted to. They did not do any anything, they went back to their homes. It was all quiet at 8 o'clock. Before the people had returned to their homes, Government House had been seized by panic. Messages were sent to the troops to be in readiness and to take up positions. Ladies in the Club and other places were told to hurry back home. Several of them did, but at 8 o'clock all was quiet, and those ladies who had gone to Government House were permitted to go back to their homes. The people did not do anything to justify the panic. The whole thing was over in a short time. Whether the firing was justified or not, leaving that question apart, the whole thing was over within an hour and a half or two hours, and there was quiet in the city, and that same day the Lieutenant-Governor was entertained at a party. That was on the 10th. What happened on the 11th? The people here again asked that they should be allowed to carry their dead in procession, and they performed the ceremonies that they had to, but nothing further happened. On the 12th there was a meeting at the Badshahi Mosque. The people had assembled there to express their regret at what had happened, the shops continued to be closed, but no harm was being done to anybody except the poor men, who were suffering for want of food, and Lala Harkishen Lal, to his honour it may be mentioned, said he would subscribe Rs. 1,000 to help to keep the people from starvation. At that meeting there was a Criminal Investigation Department man who went into the meeting and expressed sentiments which people resented. This man was roughly treated, his *pugra* was thrown aside, but afterwards the meeting passed off quietly; nothing more happened. When the people were going back they say they passed the troops and they say

there was something which led the troops to fire. Again some of the people were injured, some killed. Now my Lord, what happened afterwards? Even after this unfortunate incident the people kept quiet. There was nothing, not a flower pot injured in Lahore, not a pane of glass broken by the people—I did not hear what the Hon'ble the Law Member said.

The Hon'ble Sir George Lowndes :— The Hon'ble Member was not intended to hear.

The Hon'ble Pandit Madan Mohan Malaviya :— The noise was so great I thought something was said for me."

The President :— I am sure the Hon'ble the Law Member would have got up in his place if he had wished to put any question; that is the usual course."

The Hon'ble Pandit Madan Mohan Malaviya :— Now my Lord, what are the incidents which the Hon'ble the Home Member or anybody supporting the Bill, would expect as happening between the evening of 10th and midnight of the 15th which would justify a declaration that there was a state of open rebellion in Lahore? The Law Member has not uttered one word to justify that view. Now I submit that there was nothing; that the people were living quietly; that whatever action had been taken by the Government in the shape of placing the military and police in positions and everything else was done and there was quiet in Lahore. Whether the quiet was due to the action taken by Government or whether it was due to the innate good sense of the people is a matter which I will not go into. Any way the result was the same. There was quiet in Lahore and all the panic which resulted in ladies being frightened into leaving Lahore and being sent up to the hills seems to be utterly unjustifiable. My Lord up to the 15th then if this was the state of Lahore and Amritsar how is this Council being asked to assume that there was a state of open rebellion in those places? Why should this sweeping Indemnifying Bill be put before this Council and the Council asked to support it? Let me refer to a few other incidents that happened in the Punjab. It is said that this open rebellion was to be found in other places in a few days. But, my Lord note the sequence of events. This was up to the 10th of April. I have shown that on the 10th of April what happened at Amritsar was due to the deportation of Dr. Satyapal and Dr. Kitchlew, and after the 10th to the news of the arrest and deportation of Mr. Gindhi and possibly also, though I cannot say my Lord to the receipt of the news of what had happened at Amritsar. Now beyond that we have nothing to show that there was a state of rebellion in those places. And what is the next place to which I should invite attention? It is Gujranwala. Gujranwala kept quiet. Up to the 13th we did not hear of any untoward incident there. They had held a meeting; they had observed the Satyagraha day;

they had shown their opposition to the Rowlatt Act, but nothing further had happened. It was on the 14th, when the news of the Jallianwala Bagh massacre reached Gujranwala that the people committed some excesses. But let me tell you what they did. 'There was a complete and spontaneous *hartal* in the whole town; everything went off orderly and everything was perfectly quiet in the town,' as the judgment in the Pleader's case shows. Then, my Lord, on the 13th as the news of the arrest of Mr Gandhi had reached the town and the citizens were thinking of observing a *hartal* on the 14th, the matter of holding a meeting in case of the proposed *hartal* was considered at an informal meeting at the house of Diwan Mangal Sen. Please note, my Lord, what happened. Diwan Mangal Sen, one of the most esteemed men in Gujranwala, who had made his contributions to His Majesty's Government during the war, and considerable contributions too, along with many other respectable men, were hauled up and tried as persons who had waged war against the King. On the 12th when they met to consider the matter, after having decided what they would do, they informed the authorities that the people had decided to close business on the 14th. Mirza Sultan Ahmed, the acting Deputy Commissioner, issued instructions to the Municipal Commissioners asking them to see that everything remained quiet on the 14th. They did not do so in a surreptitious way.

"They did all in a fair, frank and open manner and there was nothing wrong which they had to conceal. The proceedings of the meeting of the Municipal Commissioners and the conversations which took place with the Deputy Commissioner are, I understand, on the record.

"Now the morning of the 14th of April opened well. All was quiet. There was complete spontaneous *hartal* throughout the city on this day. A big *Bysakhi* day was held at Wazirabad which is visited by numerous people from Gujranwala and other places. Hence there was a tremendous rush for Wazirabad in the 7-30 train. Booking was therefore stopped and many people were thus kept back. Out of this arose a general feeling to the effect that either all or none should go to the fair at Wazirabad. The train moved and in the rush the guard was stopped from getting into his compartment. As the guard was left behind, the train stopped at the distant signal. The mob at the station rushed towards the train and succeeded in getting out of the train many of the people. The mob asked the driver to come down and the driver did so. There was thus nobody in charge of the engine. Some of the mischievous hooligans then took some burning charcoal from the engine and set fire to the old rejected sleepers lying near the Gurukula bridge. The happenings were purely accidental, being due to the mischief of these very few people and were not at all premeditated. It is worthy of note that no damage at all was done to the bridge and the train passed away safely after some delay. Now, my Lord, as the mob was returning from the Gurukula bridge via the Grand Trunk Road, which runs parallel to the railway lines, it was increased

by hundreds of other people from the town and the railway station. The news was on every lip that a slaughtered calf was hung up from a girder on the railway bridge on the Lahore side. Hindu and Muhammadan relations were perfectly friendly at the time, and people therefore suspected that this was the work of the C I D. This idea gained strength from the fact that there is a large number of Hindu temples in that vicinity. The effect of this idea was most unfortunate on the public. Munshi Din Muhammad, a local pleader and a Muhammadan leader declared that it could not be the work of Muhammadans and that he would himself remove the carcass. This convinced the public that it was not the work of any Muhammadan acting on his own behalf and that it was the work of some police underlings. The excitement reached a very high pitch when people who had seen a slaughtered pig on the other side of the station gave this news to the mob. The mob had now reached the place where the slaughtered calf was hung up. Mr Heron, the Superintendent of Police, had also reached the place. Some of the enraged mob caught Mr Heron and managed to throw him down and snatched away his pistol. This they did because they thought the police underlings had done the mischief to which I have referred. These young men were however calmed down by Mr Din Muhammad, who persuaded them to leave Mr Heron alone and to give him back his pistol. When Mr Heron had thus received his pistol he fired on the mob, particularly on those young men who had given it back to him. Now several persons were wounded—*vide* page 32 Punjab Disturbances, published under the authority of Government. Thereupon, the excitement was fanned into a flame. The crowd then returned to the railway station and demanded the blood of Mr Heron who had so unjustly fired upon them, and one of the men who was so wounded died the following day. The huge crowd faced the police, the municipal commissioners and the magistrates who had all arrived at the railway station; for more than two hours, the Grand Trunk Road alone separating the two. The mob continued to yell, tremendously enraged at the spilling of innocent blood. Mr Heron wanted to open fire on the mob, although the magistrates and the municipal commissioners were doing their utmost to push the mob back into the town. The latter had just succeeded in persuading some people to go back when a shot was fired,—accidentally or deliberately I cannot say—by a police constable. This fanned the flame again into a fire. The crowd, which had so far been passive and sullen, now got enormously enraged at this. They swelled in number. Mr Heron gave the order to fire. Fire was consequently opened and many casualties occurred. Thereupon the excited mob resorted to many acts of incendiarism, burning the post office, the dak bungalow the tahsildar's and the Honorary Benches' Courts, a block of the district courts, the railway godown, and the church. This again is vouched for in the Punjab Disturbances published under authority.

The Hon'ble Mr J P Thompson:—What authority has the Hon'ble Member for saying that the pamphlet entitled The Punjab Disturbances was published under the authority of the Punjab Government?

The Hon'ble Pandit Madan Mohan Malaviya — "Is that not so? It is compiled from the 'Civil and Military Gazette,' second edition. Does my Hon'ble friend say that it is not published by the authority of the Punjab Government?"

The Hon'ble Mr. J. P. Thompson:—The cover states by whom it was published "

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, if Mr Thomson will not give me a direct answer I am sorry I cannot say more. I was told it was an authoritative publication. If it is not, I am sorry for the statement, but he ought to tell me whether it was or was not. We want facts. It contains many official Communiques.

"Now, my Lord, the people who were wounded by the firing of Mr. Heron at the Suddhan bridge where the slaughtered calf was hung up were taken through the bazaar to Niyamin where an open air meeting was all the time being held to keep the public engaged. At this meeting, speeches on Hindu Muhammadan unity were delivered, and the people were advised to be calm, and instruction given to the Manager of the Islamia School by the acting Deputy Commissioner to deliver a lecture at the meeting. The Manager's statement in the Pleaders' case will be quite sufficient for that purpose. The point I am coming to is that this was all the trouble, the regrettable, unfortunate trouble. But it was all over by about 3 P.M. Moreover, there had been no riots in the city proper. The people had kept perfectly quiet in the city, and all these events occurred in the civil station outside the Circular Road. Between 3 and 4 P.M., just about the time when, as was said in the *Civil and Military Gazette* report, the crowd was dispersing, aeroplanes arrived. Now, my Lord, the crowd had dispersed and the remnants of the crowd were dispersing when the aeroplanes arrived and bombs were dropped from the aeroplanes in several places. I have seen several of the places where these bombs were dropped, and I have learnt on the spot that several lives were lost, five in one place and two in another. When the crowd had dispersed or was going back, I should like the Council to be informed where was the necessity for dropping bombs from aeroplanes upon the town of Gujranwala? It was not in one place that bombs were dropped but in many places, and in places in the centre of the inhabited parts of the city which was all surrounded by houses. One bomb was also dropped in the boarding house of the Khalsa High School, where 160 boys were about the place at the time.

"Bombs were also dropped in the suburbs of Gujranwala where the mob had committed no excesses, and also outside the town of Gujranwala over the house of Lala Amar Nath, pleader, one of the secretaries of the Home Rule League. A bomb was also dropped in another village close by, where I am told, a woman and child were killed by it. Now, my Lord, I should like anybody to tell me what earthly justification there could be for the dropping of half a dozen or may be more, I cannot say, bombs from aeroplanes over the

people of Gujranwala when the mob had dispersed or was dispersing. This happened on the 14th. Everything was then quiet in the town and a bomb was dropped again in Gujranwala on the morning of the 15th. I should like to know what justification can be pleaded for these actions. Now my Lord, in spite of all this the people kept quiet. There was no rising of the people, there was no violence committed by the people. What little happened near the railway station was under the circumstances which I have mentioned to you. On European gentleman, an engineer I think was living about a mile or so away I cannot give the exact distance, but sufficiently far away from the scene where the mob had committed any excesses. There was no danger to European life and no insult to any European lady. Why then was this bombing resorted to? My Lord, I should like here to know what was there in the state of Gujranwala to justify the declaration, to bring it in the category of places where there was proclaimed to be a state of open rebellion?

Now it is noteworthy and I wish the Council to note that the events which took place at Hapur the regrettable murder of two Europeans there and the cutting of telegraph wires in some places, the derailment of trains here and there; these are the events which took place. The papers gave a list of them and you know them. These unfortunate regrettable events took place subsequent to the 10th of April, when a wrong had been done, when as the people believed an unjustifiable wrong had been done to a number of members of the public by the firing that was resorted to at Amritsar. My Lord, you must make allowances, take note, I mean to say of the circumstances which surround the case, and the fact that these events took place in these places after the deplorable occurrences at Amritsar is a circumstance to be taken into account. I do not want to extenuate the evil that was wrought. I deplore it, but I think it will not be right, it would not be just to exclude from one's consideration the sequence of events in order in judging where how much blame ought to be allotted to one or other party or to certain parties. Now my Lord, I leave the main incidents so far as they affect the question of a state of open rebellion at that. I would now invite your Lordship's attention to the second important part. What I have said has reference to the statement in the preamble of the Bill that owing to recent disorders in certain districts in the Punjab and other parts of India, it has been necessary for the purpose of maintaining and restoring order to resort to Martial Law. I respectfully question the correctness, the truth of this statement, and I submit that if the Council is not placed in possession of facts that may be in the possession of Government, if the Council is not placed in possession of facts which would justify the statement that there was open rebellion in Amritsar Lahore and other places, this preamble of the Bill ought not to stand where it does.

Then, my Lord, the second point to which I would invite attention is, in the preamble also. It says that it was necessary for the purpose of maintaining

and restoring order to resort to martial law. Now, my Lord, what are the facts? I have submitted that all was quiet at Amritsar at about 5.30 or so on the afternoon of the regrettable day when several European and Indian lives were lost. On the 11th and 12th there was no violence on the part of the people. On the 13th the violence that took place was on the part of some of the authorities and not of the people. Beyond the 13th nothing took place on the part of the people. How was it necessary, then, for the purpose of maintaining or restoring order to resort to martial law? Order had been restored, the passions, the regrettable passions which had led to certain crimes, had been exhausted, had exhausted themselves. The people felt that there was nothing more to be concerned about. There is one important circumstance to which I will draw attention in this connection. The Hon'ble the Home Member made a fervent appeal to those of my friends who have been blessed with large stakes in the country to reflect what would be their fates and the fates of their property if law and order were not to be preserved. Let me tell the Hon'ble Member and all who may wish to know it that the police in Amritsar was practically absent after these disorders and that the people themselves organised parties and kept watch and ward over the city and very few unfortunate events occurred. I believe that none occurred at all, so far as I am told. The people finding that the police were not doing their duty in keeping watch and ward and giving protection, organised themselves into parties and protected their town from any mischief either within or from outside. I submit therefore, that the statement that it was necessary for the purposes of maintaining or restoring order to resort to martial law is not correct, so far as Amritsar is concerned.

"Now, let me come to Lahore. Is it correct in the case of Lahore? I have submitted that while Lahore had a large European population neither at the time of the trouble on the 10th nor at any other time was any European in danger of his life or of his liberty. It is said, as was pointed out by Mr. Chanda, several days after the events that a European police officer had received a hurt and that his head had to be bandaged, but it was also stated that the hurt had been caused to him by a policeman. That being so, my Lord, I ask every member of this Council to call for information which would convince him that there was any danger which any reasonable man—men who are overtaken by cowardice or who have a craven fear, an indefinable fear may run into panic—but I should like to know any circumstances which could have led any decent man, European or Indian, to think that his life or honour was in danger in Lahore during the days between the 10th and 15th April, when it was declared that Lahore was in a state of open rebellion. I submit it was not. I submit that it is to the credit of Lahore that though these unfortunate events shooting of some innocent persons had occurred, it kept its head cool and it did not give its fellow citizens, its European fellow-citizens, men or women, any cause to think ill of the people of Lahore. It did not give any fellowman among Europeans any cause to adopt an attitude of resentment much less of

vindictiveness towards any fellowman, and yet, my Lord it was declared that Lahore was in a state of rebellion. I submit it was not, and that is a cardinal point in dealing with this Bill

"My Lord, what are the orders that were issued under martial law which even by the wildest stretch of the imagination can be said to have been demanded for maintaining or restoring order? What are the facts which made it necessary to issue the orders for maintaining or restoring order in Lahore? I gave notice, my Lord, I tried to elicit facts by a string of questions; unfortunately as I have said before Government has not thought fit to answer them, and I take it, I am entitled to take it by implication, that they have admitted the truth of it; at any rate until on behalf of Government facts contrary to those implied in my questions are stated, I am entitled in dealing with a matter of such grave importance as this Bill to assume that the truth of those statements cannot be impeached. Now my Lord, what are the martial law orders that were issued? Before I proceed further I should like to refer to the particular martial law order to which the Hon'ble the Home Member drew attention. If in the light of subsequent events the spirit of that order had been observed we would not now be discussing this Bill to-day. But unfortunately the acts carried out went far beyond and greatly against the spirit of that order. The first question to which I shall draw attention is that of flogging. How many persons were flogged and for what offences? I have looked into the question and I find that there is a provision that flogging should not be one of the punishments to be inflicted by the Martial Law Commissioners. If I am right and I think I am right, then it is regrettable that flogging was resorted to the extent it was during the continuance of martial law at Lahore, Amritsar and other places. My Lord, can anyone tell me that it was necessary to resort to flogging in order to maintain order or to restore order? With the ample military resources of the Empire to which your Lordship referred in your speech on the 3rd instant, did the Government stand in any danger of having their authority upset if they did not resort to this vile form of inflicting punishment on a fellow-man. I should like to know what justification can be pleaded for the flogging that was resorted to in various places. My Lord, leading men were arrested in Amritsar. I will refer to the orders as I find them in order to save time.

My Lord, I asked the Government to be pleased to lay on the table copies of orders and proclamations, posters, notifications and notices issued by the administrators of martial law in the Punjab

The President:— Order! Order!! The Hon'ble Member is entirely out of order. He knows perfectly well that this is a question he put forward to me as President to be allowed or disallowed. I disallowed it for reasons which appear on the face of the rules in regard to the asking of questions. The Hon'ble Member knows perfectly well that no discussion in Council can be permitted in respect of any order of the President under rule 7 or rule 8

I cannot allow the Hon'ble Member to proceed with what is really a discussion of my orders in regard to that matter "

The Hon'ble Pandit Madan Mohan Malaviya —“ Thank you, my Lord I did not propose to discuss your Lordship's order I wanted information and I was going to explain why I have not got it ”

The President —“ You proposed to discuss it in another way ”

The Hon'ble Pandit Madan Mohan Malaviya —“ True, indirectly that would be the result, my Lord ”

The President —“ Quite so I am glad that the Hon'ble Member has made that admission. That is exactly what he is aiming at, and I do not intend to permit it ”

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, the propriety of your disallowing the question was not the point I had in mind ; what I wished to explain was, that I was not able to refer to proclamations, etc , which had been issued I hope, my Lord, that you will feel that that is the correct explanation I am in the unfortunate position that in discussing a Bill of this comprehensive character which deals with martial law I have to refer to martial law notifications, etc , and if I refer to the difficulties in which I am placed I have not the remotest idea, my Lord, directly or indirectly, of making a reference to the propriety of your disallowing my question Many martial law orders and notices were issued. I am unfortunately not in a position to place them all before the Council, because I have not got them I shall try to show that all could not possibly be justified on the ground that they were necessary for the purpose of maintaining or restoring order That is the point on which I am asking the attention of the Council Let me refer to one I am told that in a lane known as the *Duglān-ki Galī* Lane* every Indian irrespective of age or position had to pass through crawling on his belly the whole length of the lane British soldiers were placed there to see that the order was obeyed I should like to know if this was necessary for the purpose of maintaining law and order? Then, my Lord, the electric lighting and the water supply of the whole of the city of Amritsar including the civil lines was cut off for four or five days from the 12th of April last. It is also a fact that a large number of wells in the city of Amritsar had been closed when Mr King was Deputy Commissioner, because he thought that the water of the wells was not healthy By the shutting off of electricity and water supply much hardship was inflicted on the people I should like to know how this was necessary in order to maintain order or to restore order? Then my Lord it is said that a number of people, very respectable people, including bankers, lawyers and doctors, were kept handcuffed in pairs for several days, They were kept in an open racket court, where it was very hot in the day, and very cold at night. They were kept handcuffed continuously for 24 hours of the day for several days together and they had to eat, drink, sleep and attend to the calls of

*In Amritsar.

nature whilst handcuffed in pairs. I should like to know if it was necessary for the maintenance of law and order to issue such orders or carry out anything of that sort? Further I am told that when on the 15th April the aeroplanes did their work and frightened the people of Gujranwala as they did there was not the smallest suggestion that there was any spirit of rebellion or resistance in the town.

The Deputy Commissioner of Gujranwala, with a strong body of police and European soldiers and with an armoured car marched to the house of Lala Meela Ram, B.A. LL.B. pleader and arrested and handcuffed him and took him away without allowing him to dress himself or to speak to his family. The party then met Mr. Labh Singh, M.A. (Cable Barrister-at-law) and arrested and handcuffed him and chained him with Lala Meela Ram. They proceeded to the houses of twenty other gentlemen (pleaders, bankers and other respectable citizens) and arrested and handcuffed and chained them all together. The persons so arrested and chained together were marched to the city two and two, headed by a Hindu and a Mahomedan to ridicule Hindu and Mahomedan unity as was stated at the time by Colonel O'Brien. Two Municipal Commissioners under the order of Colonel O'Brien walked in front of the procession thus formed and pointing to the aeroplanes hovering overhead kept on shouting to Indian people to make way for the prisoners on pain of being bombed or shot down. After being thus paraded through the principal streets of the town the prisoners were taken to the railway station and put into an open coal truck which was guarded by a number of European soldiers with fixed bayonets and by an armoured engine with a gun directed toward the prisoners. The prisoners were not allowed to leave their places even for the purposes of attending the calls of nature, and some of these gentlemen had to be there and to suffer all the trouble in the condition they were. My Lord, I am further told that on reaching Lahore railway station and before being removed to the jail, the prisoners were kept for about ten hours along with thirty other prisoners in a room which opened by means of an iron barred and panelled door into another room which was used as a latrine. My Lord, I am told that a number of pleaders and other respectable citizens in the town of Shekhpura in the District of Gujranwala, were arrested and treated in a manner similar to that adopted at Gujranwala and were subjected to similar inconveniences and indignities when being taken to Lahore. I am told further that almost the entire population of the town of Shekhpura above the age of 10 years, irrespective of rank or social position, was summoned by Mr. Rosworth Smith I.C.S. Joint Deputy Commissioner and one of the Martial Law Officers, and made to sweep a large open piece of ground. I am told further my Lord, that a large marriage party of certain Mahomedans of the village of Raigarh within the Municipal limits of Lahore was arrested and the members thereof were convicted by one of the Martial Law Officers. My Lord, these are some of the allegations which have been made in regard to the unfortunate events at Amritsar and Gujranwala. I should like to know which

of these punishments was necessary for the purpose of maintaining or restoring order. Now, my Lord, I will draw the attention of the Council to some more facts, to give them an idea of the indignities perpetrated in other parts. I will draw the attention of the Council to the allegation, among others that Moulvie Gholam Mohi ud din, pleader of Kasur, who had last year been publicly rewarded for his services in connection with the War and Maulvie Abdul Qadir, a senior pleader of Kasur, were arrested and kept in confinement for some weeks in an improvised lock up near the railway station, and were then released without any charge or trial. I am told that several school boys at Kasur were flogged, and I should like to know how that was necessary for the purpose of maintaining law and order. My Lord, it has been stated, and the facts cannot be denied, that Mr Manoharlal, M A (Cantab), Bar-at Law, formerly Minto-Professor of Economics at the University of Calcutta and now a prominent member of the Lahore Bar, and a Syndic of the Punjab University, was arrested and kept in jail for nearly a month, including one week of solitary confinement. Will anybody tell me why it was necessary to put this respectable gentleman to this indignity? Will anybody tell me why this gentleman was arrested? I am told his whole sin was that he happened to be one of the trustees of the *Tribune* paper which had enraged some of the officials, particularly the head of the Punjab Government. For the crime of being a trustee of a paper which was edited by a gentleman whose name was known and whose articles have been pronounced by most competent and sober Indians to have been written very carefully, this respectable gentleman, a member of the Bar and a Minto-Professor, was subjected to this indignity. I should like to know from the Council's own lips how much indignity was inflicted upon him and how much hardship he suffered. I should like to know why this was done? Then Rai Sahab Seth Ram Pershad, a Municipal Commissioner in Lahore, one of the largest house proprietors and bankers of Lahore, was arrested in April last and marched in handcuffs to the Central Jail, a distance of nearly three miles, kept in solitary confinement, and then released without trial after several weeks. Does the Hon'ble the Home Member ask the Council to indemnify those officers who inflicted these "indescribable indignities upon their fellowmen as respectable as any Member of this Council? Does the Hon'ble the Home Member mean to ask the Council to indemnify officers against such acts? My Lord, the list is long. I do not wish to take up the time of the Council unnecessarily except to the extent that it may be necessary to impress upon every member of this Council the necessity of examining carefully the provisions in the Bill and the proposal which is now before the Council before giving its assent. My Lord, there is a case from Amritsar, of Dr. Kedar Nath, a retired Civil Surgeon, aged 60 years, who had been invalided in 1909 on account of heart troubles; he was arrested and handcuffed and marched through the streets with 62 other prisoners to the jail and kept in confinement for a fortnight with two other prisoners in a cell which was meant for one person and then released without trial. Now, martial law notices were posted at the houses and shops of a

number of people at Lahore with directions that the occupants must guard the posters, and that if they were damaged, torn or disfigured the occupants would be severely punished under martial law. My Lord, one of these persons, an English lady the wife of Pir Taj Din, herself told me that she had to keep a watch to see that the posters stuck to their house were not damaged or torn so that she and her husband might not come in trouble, and all this trouble could not be prevented by the fact of her being an English woman. I should like to know why it was necessary to subject respectable people to all this hardship and indignity?

My Lord the manner in which the students were dealt with can be gleaned from another incident to which I will call the attention of the Council. The students of Lahore have been wronged beyond expression, and I should like to know how it was necessary for the maintenance of law and for restoring order to deal with the students in the manner that was done. All the students of the Dayanand Anglo-Vedic College, the Dyal Singh College Lahore, and the Medical College at Lahore were required to attend roll-calls before military officers when they were made to stand in the sun guarded by the military with fixed bayonets and this process was continued for three weeks immediately preceding their University examinations.

In the case of the King Edward Medical College the total distance which the students were made to traverse on foot in the summer heat for attending the roll call, amounted to not less than 16 miles a day. Some students actually fainted while going to, attending or returning from such roll-call parades and it was after that that a nearer place was fixed for taking the roll-call. My Lord, the Principals of certain Colleges in Lahore were coerced by the Martial Law Administrator to inflict very severe punishments on a certain percentage of their students without regard to any evidence of their guilt. Some of them were expelled, some were rusticated, some were sent down one year and I am told that a number of students were fined. I am told that the total number of students who have been subjected to this injustice and wrong is about a thousand. I should like to know how this was necessary to maintain order.

My Lord, it has been alleged by some of those who were tried that in the cases tried by some of the officers who were empowered to deal with these cases, especially toward the close of the martial law period, the accused were convicted without the whole of the defence evidence being heard, even though witnesses were present, on the ground of want of time. For instance, in the case of Lala Gerdasram and Lala Shivaram, pleaders of Hafizabad in the District of Gujranwala, who were sentenced to two years' rigorous imprisonment each by Mr. Wace, I.C.S. My Lord a student, Ramlok, son of Daulatram, aged 17 years, was arrested on the 25th April, and having been detained in police custody for three weeks, was released for want of evidence against him. Several days after his release, his father Daulatram appeared as a defence witness for one Ram Ditta and deposed that the police had asked Ram Ditta to turn an approver but he

had refused to do so. On this his son Ramlok was re-arrested on the following day and put on his trial for the very same offences for which he had been arrested and released before. The trial of Ramlok was fixed for the 9th and 10th June but as martial law was going to be withdrawn at midnight on the 9th June, the trial was accelerated to the 5th June without any previous intimation having been given to the accused or to his father. The accused was tried and sentenced to one year and seven months' rigorous imprisonment for offences under sections 147, 426 and 506, Indian Penal Code, by Mr A. L. Hoyle, I C S, officer presiding over summary courts under martial law, without any chance being given to him to produce his defence.

"And, my Lord, one Bhagwansingh, a meat seller of Lyallpur was arrested on the 6th June last and placed before the Martial Law Summary Court on the 7th June, on the 8th June part of the evidence was heard, and the case was adjourned, but as martial law was to be withdrawn at midnight on the 9th June, the case was taken up at 11 o'clock that night without any opportunity being given to his counsel to be present, and the accused was sentenced to three months' rigorous imprisonment.

"My Lord, in some of the cases tried by the Martial Law Commissions constituted under Ordinance No 1 of 1919, no record of evidence of witnesses, either for the prosecution or the defence, has at all been made, nor judgments recorded, though heavy sentences have been awarded. For example, the case of Crown *versus* Fazla, son of Umar Din Kakezai, convicted under section 124-A, and sentenced to transportation for life by the Commission presided over by Lieutenant Colonel Irvine, on the 26th of April 1919, and trials Nos. 20 and 21 of Hansraj and Hariram of Amritsar, before the Commission presided over by the Hon'ble Mr Justice Leslie-Jones, I C S, Judge of the High Court of Judicature at Lahore, convicting the aforesaid persons to seven years' rigorous imprisonment each under section 412, Indian Penal Code. Now, my Lord, in several other cases examination of outside witnesses for the defence was refused except by interrogatories. In some, no one would like to believe it, but in some cases even the offence with which a man is charged has not been mentioned. I hold in my hand a copy of an order with findings, dated 26th May 1919, passed in the Court of A. L. Hoyle, Esquire, Magistrate, 1st Class, of the Lyallpur district at Lyallpur, in Martial Law Cases held at Lyallpur, for Dijkote Tehsil, Lyallpur.

It says, —

'Finding—All accused guilty.

'Penalty or disposal —

'Accused No. 1, Basant Ram, 2 years' rigorous imprisonment,

'Accused No. 2, Charan Dass, 9 months' rigorous imprisonment,

'No. 3, Jawanda Ram, 9 months' rigorous imprisonment,

'No. 4, Bhagat Singh, 6 months' rigorous imprisonment.

(Sd.) A. L. HOYLE,

Summary Court.

My Lord, this is the way in which people have been deprived of their honour and liberty Is it meant that these cases shall be indemnified ?

‘ There is another copy of an order, dated 28th May 1919, with finding, passed in the Court of the same gentleman, Mr A. L. Hoyle, Magistrate, 1st Class, at Lyallpur

Finding

Accused 1 to 12 each guilty of rioting (section 147, Indian Penal Code) and offence under section 25 of the Telegraph Act, accused 13, 14, 16 guilty under section 147 Indian Penal Code, accused 15, 17 18 doubtful.

Penalty or disposal

Accused Sita Ram (1) 2 years' rigorous imprisonment for each offence, accused Ram Dutt 6 months rigorous imprisonment for rioting 18 months' rigorous imprisonment for the offence under section 25 Telegraph Act, Amar Nath (2) Kesar Mall, Gyan Chand, Amar Nath (6), Agya Ram, Haka Ram, Hari Chand, Divan Chand, Girdhari, Sita Ram (12), 6 months rigorous imprisonment for rioting and 1 year's rigorous imprisonment under section 25, Telegraph Act. All sentences consecutive.

Kesar Singh, Teja Singh and Bhag Singh 3 months' rigorous imprisonment, Nand Singh, Balwant Singh and Jaimal Singh acquitted.

Now my Lord, this is the way in which havoc has been made of the liberty and honour of many fellow subjects of ours.

My Lord, there are other instances to some of which I must invite attention. An order was issued that every Indian who should pass by a European must salaam, and in some places they were told that they must get down from a carriage if they were driving at the time. In several instances unfortunately several Indians were flogged or otherwise punished for not salaaming to Europeans and not carrying out this martial law order. In one case one Gopaldas, son of Deviditta Mal, caste Arora, of Akalgarh, who was a telegraph peon at Lyallpur during the martial law days / was arrested for not salaaming a European officer to whom he had gone to deliver a telegram and that he was given five stripes for it in jail, although he protested that he had actually salaamed the officer and was willing to do so again. I should like to know my Lord if this was necessary in order to maintain law and order. In some of the districts where martial law was in force orders were issued that every Indian driving in a carriage or riding a horse must get down when he passed by a European and, further that Indians carrying open umbrellas must close and lower them when they met a European

"My Lord, the evil was not confined to these few places and these few cases to which I have drawn attention. There has been much more injustice done and I shall draw attention to one of these that occurred in Ramnagar. I am reading from the Judgment at Ramnagar, my Lord. There were 28 persons accused. No untoward event happened at Ramnagar at any time.

"When the news of Gandhi's arrest reached there, I am told that a few boys expressed their mourning for the event and went to bathe in a river in the locality.

The Hon'ble Sir William Vincent — "May I inquire, my Lord, if this is the Ramnagar where the King's effigy was burnt?"

The Hon'ble Pandit Madan Mohan Malaviya — "This was alleged, but it was an untruth."

The Hon'ble Sir William Vincent — "I only wanted to know, my Lord."

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, my friend thought that he had scored a great point in mentioning that. I have not less respect for His Majesty the King-Emperor than the Hon'ble Sir William Vincent has, but I will show to your Lordship and to the Council that an untrue story was concocted and had to be abandoned, and that the facts would not justify the punishment which was inflicted upon the people. Now, my Lord, at Ramnagar, on the 15th instant, a certain number of boys met together and expressed their grief or resentment, whichever you please, at the arrest of Mr Gandhi and the Rowlatt Act. They went and had a bath in the river which runs through the locality. The event passed off, no notice was taken of it, and it was reported that there was quiet in Ramnagar. A few days afterwards the Deputy Commissioner, Colonel O'Brien I think it was, went there, certain instructions were given and the Revenue Assistant called a meeting of the citizens of Ramnagar and arrested four men. Several days afterwards, I think it was on the 12th of May or the 28th May, I do not exactly remember which, 23 or 24 other persons were got hold of and also *challaned*. Another man was subsequently arrested, and so the party was made up to 28. The charge against them was that they had burnt the effigy of the King. I will read the judgment to your Lordship. It says —

'Bhagwan Dass, Kapur Chand and Barkat Ali are eye-witnesses to the fact that a mob of Hindus, in whom the 28 accused were included, burnt the effigy of King George on the bank of a creek of the Chenab near the town of Ramnagar and then marched back through the town. The leader in this was Hari Singh Giani, Headmaster, who produced a small effigy which he burnt on a funeral pyre on the bank and throughout acted as crier, while others answered as chorus. The cry

raised was *Rowlatt Bill Kala Bill Marya* (and His Majesty's name is brought in and abused). The Rowlatt Bill Black Bill is dead (and abuse of the King Emperor). The ashes were cast into the river by Hari Singh and most people bathed as purification. Other witnesses, one Hindu and several Muhammadans, give evidence that Hari Singh Giani, Qanlat Ram Balmokand, Karam Chind and Gobind Sahai organised a *kartal* on the afternoon of the 15th and had called all the Hindus to a meeting near the river. On their return they came through the town headed by Hari Singh as crier shouting out *Rowlatt Bill Kala Bill Marya* (the Rowlatt Bill the Black Bill, is dead and abusing His Majesty—I am translating the words I do not wish to utter them). The crowds are said to have consisted of about 200; but all three principal witnesses united in naming the 28 accused. Some named others but these have been weeded out where not corroborated. The witness who saw the crowd return also named the accused though one or two were doubtful in the case of 5 or 6.

All the accused plead not guilty. Most of them call witnesses for good character or for *alibis* of no value. It is noticeable that witnesses for the defence do their best to prove their own absence during the period of the alleged offence which suggests that they are not prepared to deny that such a thing took place.

Of the defence witnesses worth noticing those for Balmokand tried to prove an *alibi* for him in Gujranwala. He himself claimed to be in Gujranwala up to 1.30 on the 15th.

Other witnesses speak of having met Balmokand on the road. But they avoid arguments which might agree and be tested on cross-examination. On the other hand, it is shown by evidence that Balmokand rode off from Gujranwala and passed Manchor 3 miles from Ramnagar at midday on the 15th.

It is indisputable that the affair of burning the King Emperor (he is burning the King Emperor but he evidently means the effigy of the King Emperor) took place. There certainly was a *kartal* and the people went to the river. Although a few witnesses for the defence try to declare that there was no *kartal* ever this is disproved by the first report when it was known that anything more serious had happened and also by the anxiety of the majority of the defence witnesses to prove their own absence. The evidence that

the King Emperor was burnt in effigy by Hari Singh with the plaudits of the mob sitting round him is also ample. Two Hindus and one Muhammadan gave evidence to this, as also to the casting of the ashes into the river and the purification of Hindus by bathing. Many more witnesses prove the return of the party through the town with Hari Singh chanting in front *Rowlatt Bill Kala Bill Marya*, etc. The case did not come to light for a week and could not be investigated till later, but this was due to the absorption of all officials in the outrages elsewhere and the Sub Inspector in those of Akalgarh. The story is not one that would have been invented. I find that the case has been well sifted and that the 28 accused are proved by the evidence of the prosecution to have been there. . . .

The offence is so gross that the accused are lucky in not having been sent up to a Tribunal. Hence the maximum imprisonment must be inflicted on almost all. Many of the accused are wealthy and heavy fines are very suitable. I sentence them as under —

- 1 Daulat Ram,
2. Balmokand,
- 3 Karam Chand,
- 4 Gobind Sahai,
- 5 Hari Singh,

to rigorous imprisonment for two years, of which three months to be in solitary confinement and to pay fines of rupees one thousand each, or in default rigorous imprisonment for six months in addition.

“Now, my Lord, the people say that if there was a fair trial it would have been established that this story was entirely untrue, and that they did not burn the effigy of the King-Emperor. Now, these people, as the judgment says, were wealthy and respectable, and for that reason they were sentenced to such heavy punishment and such large fines, which, in the case of such people, is a very serious matter. These respectable people had no reason to indulge in such foolish and wicked mischief, but you subject them to trial in a summary court, where their honour is concerned, and you do not give them an opportunity to establish their innocence, and they are sentenced to two years' rigorous imprisonment. These are the cases in which the Bill seeks that the sentences shall be confirmed. I submit, my Lord, that nothing could be a grosser wrong than to ask the Legislative Council to confirm sentences of this nature where men have not been given an opportunity to have their defence properly put and where they have not been given an opportunity to appeal to a higher tribunal.

“Now, my Lord, I will not deal with any more cases. I think what I have submitted is sufficient to show how great is the need for having the facts of these unfortunate times sifted and well established before an Indemnifying

Bill should be dealt with by this Council. As I have submitted before, there are two points essential in asking for an Indemnifying Act. One is, that there should have been either open rebellion or war against the King or riots or insurrection which amounted to war which it was necessary to suppress; and secondly even if such a necessity was shown to have arisen it should be further shown that the acts done were such as, in the language of the three Statutes which I quoted, were not only necessary but so much for the benefit of the public, that those acts ought to be justified by the Legislature and that the officers who did them ought to be indemnified. I submit my Lord, that this has not been shown to be the case. Now the Hon. the Home Member tells us that the question whether martial law was necessary will be discussed and settled by the Committee of Inquiry but he says Go further. Take the fact that martial law was declared. Then I ask you to consider the case, the position, the pitiable position, of those officers who were ordered or directed or commanded to do certain acts. We promised them in our Resolution of the 14th of April 1919 that we would give them our ample support. We are bound in honour to protect them from the results of actions which they undertook upon that assurance. My Lord that is begging the whole question. If you are not right in giving them that assurance that assurance will not stand them in good stead. You ask that the Council should pass this indemnifying measure and yet you say that the question whether martial law was necessary or not shall be determined by the Committee of Inquiry. I submit that this is a preposterous position to take before this Council. If the Bill is passed, what will be the effect of the decision by the Committee of Inquiry as to whether there was open rebellion in Lahore or Amritsar or not? In the quotation to which I have referred Earl Halsbury has made it clear that the Crown may not issue commissions in times of peace to try civilians by martial law; but when a state of actual war or of insurrection, riot or rebellion amounting to war exists, the Crown and its officers may use the amount of force necessary in the circumstances to restore order.

The cardinal point, therefore, is, whether there were circumstances which justified the declaration of martial law. You cannot go on to deal with this Bill without first dealing with that cardinal point. If you think that you owe it in courtesy to the Committee of Inquiry which you have constituted to leave the decision on that important matter to them I say in fairness to every one concerned, including the Government, stay your hand, do not proceed with this Bill. Wait for the result of that inquiry. Let the facts be sifted out and when the facts have been sifted out, indemnify officers for all acts done in good faith with reasonable care and caution, for restoring order or maintaining it, wherever it might have been necessary. No sensible man would for a moment object to His Majesty's officers or those acting under their instructions being indemnified and protected against the consequences of acts done by them in good faith with reasonable care and caution in circumstances where the existence of martial law could be justified. But where the existence of martial law is not justified where-

the very foundation upon which martial law rests is non-existent, I submit, that the officers who took certain steps against their fellow men have to take their chance of having their cases adjudged and determined in the light of equity and justice by ordinary courts in the country

“Now, my Lord, the Hon’ble the Home Member said he did not want to prejudice the inquiry that the committee is going to make. But I am sorry to think that though he may never have meant it, his observations read outside this Council and in England will leave only one impression. If the object was to prejudice the inquiry, his speech could not be better framed than it was. My Lord, the Hon’ble the Home Member in effect said, ‘Well, I do not want to go into the facts—that is a matter for the Committee of Inquiry. But the Committee of Inquiry are not going to censure any man for performing any act in good faith.’ What is this, my Lord? Why raise the question now? When you say the Committee of Inquiry is not going to pass any censure upon any officer of Government for certain things, are you leaving the Committee quite free to do what they may think fit? Either leave the matter fairly to the Committee’s decision, or say frankly as you have the power to say it that you do not want any inquiry into these dark deeds and that you want to throw a veil over them. Throw it if you can, of course in this country you can do it, but perhaps the fear of the English public and Parliament might deter you from doing so. In that case I say wait, do not proceed with this Bill until you have the report of the Committee of Inquiry. The Committee of Inquiry will certainly be prejudiced if they read the speech of the Hon’ble the Home Member. They might well take it as their instructions from the Government, because the Hon’ble the Home Member represents your Excellency’s Government in all these matters, even more perhaps than your Excellency does. I venture to say that the public will consider it very wrong on the part of the representative of the Government to give expression to the opinions and remarks to which the Hon’ble Member has given expression to day. The Hon’ble Member also said that he did not want to prejudice any decision that the Privy Council may think it fit to pass on any of the appeals before them and pointed to a provision in the Bill, expressly guarding against the effect of this Bill upon any judgments which the Privy Council may wish to pronounce. But, my Lord, if you indemnify acts in the manner in which you are doing with the provisions in this present Bill, well may their Lordships of the Privy Council complain that you have done what no ordinary citizen is expected to do, namely, to pronounce judgment on some important aspects of the case before they have had time to deal with them.

My Lord, I wish here to make it clear that I have done all that I could as an individual member of this Council to postpone the discussion of questions of fact and law relating to the events that have occurred. I gave notice of questions—I do not refer to them now—I am only showing how I gave notice of these questions with a view to elicit facts which might postpone the intro

duction of the Bill. Most Indian members of this Council, if not all were anxious and they expressed their desire to the representatives of Government that the introduction of this Bill might be delayed until the Committee of Inquiry had submitted their Report. My Lord we are not anxious for any particular verdict. God knows I am not anxious that the fault or guilt shall fall upon any particular individual. I only want the facts to be proved; I want that the facts being proved whosoever may have been responsible for acts which cannot be justified or excused should stand a trial before the public opinion of this country and the public opinion of the High Court of England. We think that when you have appointed a Committee of Inquiry to go into those facts, it is only fair that a discussion of facts which the committee has to deal with or the law which the committee may have to consider should be avoided. „I should have been glad to avoid such a discussion but it has been forced upon me and I wish this to stand on the record of the proceedings of this Council. But, my Lord now that this Bill has been introduced, we are compelled to refer to the events which have led to its introduction. The souls of those who died at Amritsar and other places, appeal to us to point out to your Excellency's Government the facts which are of a cardinal character of vital importance, for a consideration of this Bill. The men who have lost their sons, those who have lost their brothers, the women who have lost their husbands, the mothers who have lost their sons, who are mourning the deaths of the relations who have met an untimely end, they plead through us for the most careful consideration of the whole affair. They plead that no decision should be arrived at and that no Act should be passed which would prejudice a proper consideration of their case. The Government cannot say that the delay of a few months will really prejudice their position. If the Hon'ble the Home Member advised by the Hon'ble the Law Member felt that if a Bill like this is not passed, every moment of the detention of numerous persons who have been condemned by the Martial Law Commissions and the Martial Law Summary Courts to imprisonment is unjustifiable, why did the Government not introduce the Bill earlier? Why did they not call a meeting of the Legislative Council earlier to deal with this matter? If they have allowed so much time to pass, if it is only now when public opinion is forcing attention to what has happened in the manner in which it is doing that they now feel that they must have an Act to safeguard their officers, I say let them wait another few months until the Committee have reported.

My Lord there is a provision in the Bill giving retrospective effect to it. That provision might be of use to those who want this Bill at once in order to prevent the evil which may result to any officer by a suit having been instituted against him. I do not know of any case which has been instituted. The Punjab has been frightened beyond description; the Punjabis have been terrorised in a manner in which the people of no part of the country were terrorised ever before. In spite of the presence of Sir Edward MacLagan in the Punjab, that terror has not yet entirely been removed from the minds of the

people. In this state of things they cannot be anxious, I do not know that many are anxious to institute any suits for damages. I do not know that any suits have been instituted and that many are anxious to rush forward with cases into the Court. All that they desire at present is that what has happened should be established beyond doubt. It will be time then to consider for them what they should do. Indeed, after the Committee has reported they might well expect the Government to take such action as the Government might think fit, against such of persons as may have been shown to have acted in an unjustifiable manner. Where the number of persons to whom injury has been done is so large and many of them are poor, you cannot expect that they will be able, that many of them will be able, to seek redress and to obtain it. It is only if the conscience of the Government, to which the Hon'ble the Home Member referred, if the conscience of the Government should be stirred by the recommendations of the Committee of Inquiry, if the Government should think that they owe it to His Majesty's Government and to the name of Britain and to British justice, that they should bring certain persons, they may be Indians, they may be Europeans, who have been guilty of inexcusable wrong doing to justice, it is only then there would be a chance of justice being done.

" My Lord, all these considerations support the view that the Government should not be in a hurry to proceed with the Bill.

" Having said this much on the general aspect of the Bill I shall now address myself to some of its provisions and to the remarks which the Hon'ble the Home Member made in regard to them. The Hon'ble the Home Member said that, when martial law is introduced, the officers of Government have not time to wait to examine things, that they must take prompt action, that they may perform acts which are illegal, but so long as they perform acts which are moral and proper they should be protected. From what I have said it will appear that it is very important to find out which acts come under that category, *viz*, acts which though not legal are right and proper. Then he said that an Indemnity Bill of some character is the inevitable sequel to the introduction of martial law. I agree that an Indemnity Act of a certain character may be inevitable, but this involves two important questions. What are the circumstances in which an Indemnity Act is passed? And what should be its nature? The Hon'ble the Home Member quoted Dicey. He says that the time for which an Indemnity Act is passed must be one of national danger. I have shown that there was no national danger. In a few cases individuals lost their reason, were carried away by passion and committed deplorable acts, but we cannot say that these constituted national danger. My Lord, in this connection I wish to draw attention to the contrast to which reference was made in the cablegram of the Indian National Congress to which I alluded before in Council. At the time there was trouble at Lahore there was also trouble at Ahmedabad and Viramgam. His Excellency the Governor of Bombay allowed Mr Gandhi to go to Ahmedabad and see the people and to work freely among them. He was able

to quiet them, and also to censure them for the outrages they had committed. Martial law was gone in a few days. That was all that was needed at places like Amritsar and Lahore at the utmost. I say there was no justification for martial law in Amritsar because it was stated to be quiet after 5.30 P. M., on the 10th of April. But assuming that there was justification for martial law on the 10th April it should have been withdrawn by the 12th or 13th. The action taken in Ahmedabad forms a happy contrast and affords an instructive lesson in the light of what has happened here. The Hon'ble the Home Member says that there must be a period of national danger when martial law is introduced. I agree with him, but I submit that there was not a period of national danger in the Punjab to justify the introduction of martial law. The other point that he referred to when quoting from Dicey was, that the acts done must be *bona fide* and solely in the public interest. It is only in such cases that the persons can be indemnified. In view of all that I have said, I ask the Council to judge whether a Bill of such a sweeping character as is before the Council should be passed when the allegations which have been put forward on behalf of the people have yet to be ascertained. Then the Hon'ble the Home Member referred to various Colonial Legislatures including the South African which have passed Indemnity Acts.

I may mention here that members of this Council are put to great inconvenience for want of a good library for ourselves. We have at times to borrow books, not only from the library of the Legislative Department which perhaps causes them a little inconvenience, but also to get books from distant places in order to carry on our work. I am indebted for a copy of the Cape of Good Hope Act to the Hon'ble the Law Member who lent it to me at my request. The absence of a good library hampers our work; if we had such a library we might be able to save much of the time of the Council and our own.

The Cape of Good Hope Act shows that a Commission consisting of the Lord Chief Justice of England General Ardagh and Judge Bigham of His Majesty's High Court was appointed to inquire into the administration of martial law during the period of the Boer War. It would support what I said in regard to the constitution and powers of a commission of enquiry on a previous Resolution. Now to come to this Act, VI of 1900. This was passed while the Boer war was going on. It set out the circumstances under which the Act was introduced. It was to punish those persons who had taken up arms against Her Majesty the Queen or otherwise assisted her enemies. It was for the suppression of hostilities and for the maintenance of good order. My Lord this Act cannot afford any parallel for the legislation which is now under consideration. The Act passed in 1902, No. 4 of 1902, is also important. It was an Act to indemnify the Governor of the Colony and the officer commanding His Majesty's forces in the Colony and all persons acting under their authority and in good faith, in regard to acts done or committed during the existence of martial law to validate certain sentences passed by courts-martial or military

courts and to confer certain powers on commissioners inquiring as to and reporting on such sentences being still unexpired. And it promised indemnity in respect of certain acts, matters and things whatsoever that were ordered as necessary for the suppression of hostilities or the establishment and maintenance of good order and government in or for the public safety of the Colony between certain dates.

“Now, my Lord, I submit that here again it had reference to the suppression of hostilities or the establishment of good order and government. It has to be shown that this was necessary.

“Secondly, my Lord, this Act which, I think, has been taken as a model for the Bill which is now before the Council points out that it is only acts done or committed during the existence of martial law which can be indemnified. The Bill in the Statement of Objects and Reasons does say that ‘the object of the Bill is to indemnify officers of Government and other persons for acts done *bona fide* in the course of martial law during the recent disorders, and to provide for the continuance of the sentences passed by courts established under martial law.’ But, the Council will see that the provisions of the Bill go far beyond it. Whether this was deliberate or unintentional, I cannot say, but the Council will see that the Bill says in clause 2 ‘No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India on or after the 30th of March 1919 and before the commencement of this Act.’

“Now, my Lord, as we all know martial law came into force in Lahore and Amritsar, at midnight of the 15th or rather at 12 o'clock of the night between the 15th and the 16th. By what justification then can events which took place from the 30th March to the date on which martial law was proclaimed be included within the scope of the Bill, I am unable to understand. Ordinarily such a Bill should be confined to the period during which martial law prevailed, but this Bill goes beyond that period, and the second terminus which it fixes is the commencement of this Act. I should like to know what justification there is for that either.

“My Lord, the next point to which I would refer is this. The Bill seeks to indemnify officers against their acts, ‘provided that such acts, matters or thing were ordered or done in good faith and in a reasonable belief that they were necessary for the said purpose.’ This, my Lord, is very objectionable. All that you ought to do is to indemnify officers for acts, which were done in good faith and were in fact reasonable, and necessary. If a man shoots his fellowman it is for him to show that he acted in a reasonable manner and in good faith. Now, is that man

to be indemnified? In this matter I would draw attention to a few observations of Mr Justice Chamberlain in one of the State Trials which took place in 1799. It was the case my Lord of Wright *vs* Fitzgerald. Wright brought a suit against Fitzgerald for assault and battery. He had been flogged by the order of Fitzgerald 50 lashes had been given to him and in addition 50 more. Now in disposing of that case Mr. Justice Chamberlain proceeded to charge the jury as follows — His Lordship said that the jury were not to imagine that the legislature, by enabling magistrates to justify under the Indemnity Bill, had released them from the feelings of humanity or permitted them wantonly to exercise power even though it were to put down rebellion. No it expected that in all cases there should be a grave and serious examination into the conduct of the supposed criminal; and every act should show a mind intent to discover guilt, not to inflict torture. By examination or trial he did not mean that sort of examination and trial which they were then engaged in but such examination and trial, the best the nature of the case and the existing circumstances would allow of. That was what Mr Justice Chamberlain said. He said that every man, whether Magistrate or not was authorised to suppress rebellion, and was to be justified by that law for his acts, it is required, that he should not exceed the necessity which gave him the power; and that he should show in his justification, that he had used every possible means to ascertain the guilt which he had punished; and above all, no deviation from the common principles of humanity should appear in his conduct.

My Lord, the Legislature is asked at this moment

The Hon'ble Sir George Lowndes :— Will the Hon'ble Member kindly give me the reference?"

The Hon'ble Pandit Madan Mohan Malaviya :— It is State Trials, Vol XXVII 1820. Now my Lord I submit that in these remarks of Mr Justice Chamberlain we get a great guidance for our work in which the Council is asked to engage itself. We are not a Court sitting here to consider whether a person charged for having committed any particular act during the recent disturbances should have a decree passed against him or should be exempted. The Legislature is sitting at present to lay down the principles and the provisions under which the case of such a man should be tried and considered, and, I submit, that the remarks of Mr Justice Chamberlain are therefore of peculiar help and guidance to us.

In the Bill what is provided is that—

It is expedient to indemnify officers of Government and other persons in respect of acts matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order provided, that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes.

“Now, my Lord, my particular objection is to the expression ‘in a reasonable belief’ I submit that as the Bill stands it would make it impossible for any plaintiff, ordinarily speaking, to succeed in any suit which he might institute against any individual who had wronged him. This becomes clear when you look at section 2, for it says that no suit shall lie against any officer of Government who may have done certain things, ‘provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes’

“Now, my Lord, I submit that even apart from the rules of evidence in section 3, to which I shall refer later, the officer whose action may be questioned must not only show, that he had done the act in good faith, but also that the act was necessary and that he had done it with reasonable and proper care and consideration. In the words of Justice Chamberlain, ‘he should not have exceeded the necessity which gave him power. And no deviation from the common principles of humanity should appear in his conduct.’ Now, I submit, my Lord, that the Bill goes much further than this and gives a measure of protection which is not justified by previous enactments, or by considerations of reason and justice. In the case, which I have quoted, the charge was that Wright had been wrongly flogged by Fitzgerald. Here we have many cases in which flogging was resorted to rather freely. In that case, in concluding the judgment of the case, Lord Velverton, speaking of the defendant, for whom it had been pleaded that he had done many acts of loyalty, said, ‘he had indeed manifested his loyalty most fully for he had written it in blood and imprinted his name on the plaintiff’s back.’ My Lord, here too the administrators of martial law had written their names in blood on the backs of many innocent fellow subjects, and they should be allowed to ask those who so injured them to prove that they had acted with reasonable care and caution in the interests of public peace and good order, and without deviating from the common principles of humanity.

“My Lord, the provisions to which I have drawn attention become much more objectionable when you come to section 3 which says —

‘For the purpose of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.’

“My Lord, what is given with one hand is taken away by the other. Read with section 2 of the Bill, this section 3 practically shuts out all chance of success for any plaintiff who may wish to have a suit instituted, to have an injury done to him investigated. It says, that unless the contrary is proved, an

action shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary for the purpose of maintaining or restoring order. Let us assume—I may be doing an injustice to the gentleman, but I name him as an illustration—that Mr. Manohar Lal Barrister-at-law institutes a suit, brings an action for damages for the wrong done to him by his being confined in the manner in which he was confined in a cell and otherwise. Why should he be asked to prove that the person who caused him the injury acted without good faith and without a reasonable belief that his confinement was necessary for any human purpose? Why should not the burden of proving that he acted in good faith and with reasonable care be cast upon the defendant? It ought to be sufficient for the purpose of a fair trial of a character like that in any Court that the plaintiff should state before the Court on oath the facts of the case, and if the facts of the case did not show that he was either a criminal or had been condemned, or that he was guilty of any act for which he should be locked up, then it should be for the defendant to establish that the facts were such that he could not but act in the manner in which he did and that therefore he should be excused for having so acted. It is a double wrong, my Lord, a double wrong to plaintiffs, to persons who have been subjected to all these humiliations and wrongs, that they should be called upon to prove that those who oppressed them had acted without good faith and without reasonable belief. I submit, my Lord, that fairness demands that this clause should be deleted. It will be possible for anybody to think of having a chance of success in a suit for damage only if this should be deleted. To require the plaintiff to prove that the defendant has ~~not~~ acted in good faith and reasonable belief is entirely wrong. How can the plaintiff exercise an attribute of omniscience. How can he search into the heart of the defendant and show an intimacy with the motives of a stranger only known to him by his tyranny and oppression, and prove that the injury he received has been the consequence of a malicious intention? Motives can only be inferred from actions, and it is for the defendant to show that his motives were such as to justify his actions being excused. It will be impossible for the plaintiff to prove things specially within the knowledge of the defendant. I submit, therefore, that this section 3 of the Bill is open to grave objection, and that it takes away what the Bill appears to give in another section.

Now my Lord there are other objections to which the Bill is open. I will go back to the preamble. It says:—

Whereas owing to the recent disorders in certain districts in the Punjab and in other parts of India, it has been necessary for the purpose of maintaining or restoring order to resort to martial law

I do not know how this wide wording will affect acts done in Delhi, for instance, and in Calcutta. The object of the Bill should be clear and the language that is used should be modified in order to make it clear. I am not sure as the preamble

stands, whether it does not also cover places where no martial law was established. Clearly it should not.

“Then, my Lord, I come to clause 4, confirmation and continuance of martial law sentences. The Bill provides that, ‘Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity, shall be deemed to have been lawfully confined.’ And, it goes on to say ‘and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor-General in Council or otherwise discharged by lawful authority.’

“My Lord, I must say that this provision of the Bill has shocked me most. I think, my Lord, that the statement of the Hon’ble the Home Member made it clear that the Government of India are conscious that, unless an Indemnifying Bill of the nature now before the Council, that is to say, unless a legislative provision of the nature embodied in clause 4 is passed by this Council, the detention of men who have been sentenced by martial law courts will be illegal. I take it, my Lord, that that is the position. That being so, I submit it is wrong to these people that the help of the Legislature should be invoked, not for remitting or wiping off the convictions or sentences, but for confirming them and continuing them.

“My Lord, it seems to me that the Bill was not conceived with sufficient care and deliberation, that the various provisions which were necessary in the circumstances of the situation were not fully considered at one time. It seems to me that, even if the model of the Acts of South Africa had been kept fully before the Government, the Bill should have been drafted, might have been cast, in a different mould, might have consisted of different provisions. The Hon’ble the Home Member, and I suppose the Hon’ble the Law Member, perhaps on referring to the South Africa Act, Act IV of 1902 of the Cape of Good Hope, would have noticed that there was a provision made for a revision of the sentences of those who had been convicted or sentenced by the martial law authorities. Now, my Lord, it is perhaps to make up for that omission, that the Hon’ble the Home Member has to day announced the decision of the Government of India that two Judges of the High Court will be appointed to revise the sentences passed by summary courts. I welcome that announcement so far as it goes, but it only strengthens my suspicion that the matter was not considered in all its aspects when the Bill was drafted. I would draw attention here to the provisions of the Act of the Cape of Good Hope. May I ask the Hon’ble the Law Member for a copy of that Act, Act IV of 1902?”

The Hon’ble Sir George Lowndes —“It might save the Hon’ble Member trouble if I were to inform him that that was not the Act which we took as a model at all, but the later Act of 1915, of which he does not appear to know.”

The Hon'ble Pandit Madan Mohan Malaviya :— I thank the Hon'ble the Law Member I did not know of the Act of 1915 or at any rate I did not remember it in the midst of the Statutes which were noted by my friends who have been working for me in this matter. But I am thankful to the Hon'ble the Law Member for informing me of it, and I shall feel thankful to him if he will let me have a copy of that Act also."

The Hon'ble Sir George Lowndes :— Certainly after the Hon'ble Member has finished."

The Hon'ble Pandit Madan Mohan Malaviya :— My friend the Law Member need not be so afraid of letting me look at the Act before I finish, for I might find some help from it. However I shall be content for such courtesy as he thinks fit to extend to me.

Now my Lord, this Act, Act IV of 1902 contained important provisions regarding the confirmation of sentences passed by military courts, but it also contained provision for the revision of sentences. I beg to draw your Lordship's attention and the attention of the Council to this provision. The Act declared that—

The several sentences pronounced by Courts-Martial constituted and convened by proper authority and holden in districts of this Colony in which martial law was proclaimed or imposed, and during the existence thereof upon persons not ordinarily subject to Military Law tried by such Courts for acts of high treason, murder or for all or any other crimes or offences whatsoever or for all or any contraventions of any Regulations expressed or purporting to be issued under martial law and commonly termed Martial Law Regulations are hereby confirmed; and all such persons confined in any prisons or other legal places of confinement within the Colony under or by virtue of such sentences shall be deemed to have been and to be legally confined there and shall continue to be so confined there or elsewhere, as the Governor may direct, until the expiration of the sentences respectively passed upon them or until they are discharged by lawful authority and such sentences shall be deemed to be sentences duly passed by duly and legally constituted Courts of this Colony

The second part of this section goes on to say :—

Each and all of the officers of the prisons or other legal places of confinement mentioned in the preceding sub-section who have or had at any time in good faith received into or kept

in confinement any of the persons mentioned in the said preceding sub section shall be deemed for all purposes to have acted legally.'

" And the third part is also important It went on to say,—

' All persons in this Colony who have been deported without the limits thereof under and by virtue of any of the foregoing sentences referred to in the preceding sub-section shall be deemed to have been and to be legally deported without the limits of this Colony, and such acts or cases of deportation as aforesaid shall be deemed to be among, and shall be included under, the acts, matters and things referred to in the second section of this Act '

" Now, my Lord, in reading these provisions, it should be remembered that it was in consequence of the Boer War that it had become necessary to proclaim martial law in South Africa The object of these, provisions no doubt, was to legalise the sentences which had been passed but there was the important fact that there was a war waged against the Queen It was necessary under those circumstances to confirm the sentences, particularly in the case of persons not ordinarily subject to military law tried by martial law courts for acts of treason, murder or for other crimes or offences or for any contraventions of any Regulations expressed or purporting to be issued under martial law and commonly termed Martial Law Regulations For the same reason it was necessary to enact that the punishments which had been inflicted should be regarded as legal and that a suit should not lie against persons because they had confined rebels in imprisonment or deported them Your Lordship will have noted that in section 2 jailors are indemnified, and in part 3 certain acts are validated and, therefore, I submit, the object was more to legalise the acts which had been done and the punishments which had been suffered and which might be suffered as a matter of necessity until they were remedied later on. But this was accompanied, my Lord, if not preceded by a very salutary provision Your Lordship will be pleased to note that while this general Indemnity Act was passed on the 15th September 1902, a Commission was appointed on the 2nd of August 1902 Edward VII, by the Grace of God of the United Kingdom of Great Britain and Ireland, appointed a Commission Its terms of reference were incorporated in the first schedule of the Bill It was not an extraneous announcement like what the Hon'ble the Home Member has made today that the Government of India would be pleased to appoint two High Court Judges to revise sentences passed by Summary Courts and here I may say that the public have come, my Lord, not to have the same confidence in High Courts after the troubles in the Punjab My Lord, this ought to be a part of the Bill so that the public might know that there is sufficient and adequate provision made for a revision of all sentences passed by martial law courts and authorities,

The first Schedule my Lord, to the Cape of Good Hope Act sets out the Commission passed under the Royal Sign Manual and Signet appointing the Right Hon'ble Baron Alverstone Sir John Charles Bigham and Major-General Sir John Charles Ardagh, to be Commissioners to inquire into the sentences imposed by the military courts, established under martial law in the South African Colonies and Protectorates and appointing Gilbert Mellor Esq. to be Secretary to the Commission. Your Lordship will see that the Lord Chief Justice of England was the President of the Commission and Justice Bigham one of the justices of our High Court of the Justice was a member and that General Sir John Charles Ardagh, K.C.I.E., was the other member. It is important to draw attention to certain provisions of this Schedule. It runs as follows :—

Whereas in consequence of the war declared by the late Governments of the South African Republic and Orange Free State against Her late Majesty Queen Victoria, it became necessary to proclaim martial law in our colonies and protectorates in South Africa; and whereas certain persons have been by military courts established under martial law in the said colonies and protectorates sentenced to terms of penal servitude and of imprisonment and to the payment of fines and are now undergoing the said sentences and have not paid but are liable to pay the said fines;

And whereas the aforesaid war having now ceased it is expedient that inquiry should be made with regard to the aforesaid sentences with a view to ascertaining whether we might properly and without danger to the public safety of our said colonies and protectorates extend our grace and mercy to any of such persons and where such sentences and any and which of them might properly be by us remitted or reduced

Now know ye that, we considering the premises, and reposing great trust and confidence in your fidelity and discretion and integrity, do authorise and appoint you the said .. (three persons) to be our Commissioners to inquire into the said sentences imposed by military courts established under martial law in our said colonies and protectorates and with as little delay as possible to report to us in writing under your hands and seals respectively whether in the case of the said persons, and of which of them respectively who shall be at the date of your report then undergoing any such sentence or who shall not have paid but shall then be liable to pay any such fines, it is expedient, having regard to all the circumstances relating thereto, that such sentences or fines should be remitted or reduced.

Now my Lord, your Lordship will please note that the Commission was to report with as little delay as possible. That, my Lord, was incorporated as



Wounded at Lahore in the firing on April 10



The National Bank, Amritsar (looted and burnt by mob on April 10th).

part of the Bill I shall feel grateful to the Hon'ble the Law Member if he will kindly give me Act VI of 1900 also .

The Hon'ble Sir George Lowndes —“ I was in hopes, my Lord, that I had not got it, but I have ”

The Hon'ble Pandit Madan Mohan Malaviya —“Now, my Lord, there is an important provision in this Act of 1900, to which I invite the attention of Council and the Government My Lord, the whole attitude of the Government as disclosed in these two South African enactments and as disclosed by the Bill presented to this Council shows, I am sorry to say, a regrettable difference In this Act of 1900 (VI of 1900), there was a provision to confirm sentences, merely to legalise, as I have pointed out already, what has been done

‘ All actions, indictments and legal proceedings whatsoever which might be brought or instituted in any of the courts of this colony against His Excellency the Governor of the Cape of Good Hope or the officer for the time being in command of His Majesty's Forces in this colony or against any person or persons acting under them or either of them respectively, in any command or capacity, civil or military, for or on account or in respect of any acts, matters, and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary for the suppression of hostilities in or the maintenance of good order and government or for the public safety of this colony between the date of the commencement of a state of war between Her Majesty's Government and the Government of the South African Republic and Orange Free State and the date of the taking effect of this Act, shall be discharged and become and be made void ’

“ Then, my Lord, it is laid down in section 5 that —

‘ In all cases of convictions for high treason or other crimes of a political character during the period specified in section 1 of this Act, where such convictions have taken place before courts martial or military courts constituted, convened and held as in the last preceding section set forth or where they have taken place before the ordinary criminal courts having jurisdiction over them, it shall be lawful for the Governor, should he consider that any such case would, had it been dealt with after the taking effect of this Act, have been a case proper for the consideration of the Commissioners appointed under section 33 hereof, to order that the said sentences imposed upon such persons shall be altered into the sentence laid down in section 50 of this Act The person affected by any such sentence shall thereupon become liable to suffer the penalty imposed by the said fiftieth section and no other ’

That is to say a sentence under section 50 has been substituted for the one already imposed. Now section 50 says:—

The said Commissioners shall after hearing the evidence, if any for and against the accused, decide whether he is guilty or not of the charge brought against him, and in all cases in which an accused person shall be found guilty the said Commissioners shall adjudge that he shall be, for the period of five years and no longer disqualified from being registered as a voter or from voting for the election of members of Parliament, or of a Divisional or Municipal Council, or of a Village Management Board or from being or continuing to be a member of Parliament, or from holding any public office, or continuing upon the Commission of the Peace or from serving upon a Jury in civil or criminal cases, anything contained in any Law or Act of Parliament to the contrary notwithstanding; and thereupon such person shall be in Law absolutely disqualified in regard to all the afore-mentioned matters and his name, if upon any existing voters' list, shall be and is hereby removed therefrom and the vote of any such person given at any such election shall be null and void and may be struck out in any proceeding in which the result of such election is challenged in any competent court. Save as hereinafter provided the findings or decisions of the said Commissioners shall not be subject to appeal or to review by any Court whatever

Now my Lord, you will see what an important difference of outlook and aim these provisions of the Indemnifying Acts to which I am referring show as compared with the provisions of the Bill before us. My Lord three High Commissioners were appointed as part of the South African Act, and they were given power to wipe off all other sentences in the case of persons found guilty of high treason or other crimes of a political character and to substitute a municipal disqualification. Therefore, it was not in ordinary trifling cases, cases of not *salvaging* a European, but it was in cases of convictions for high treason or for other crimes of a political character during the period of the war that this municipal disqualification was to be substituted as the only punishment.

The other day my Lord I brought forward a Resolution and urged that the Government might consider the advisability of appointing a Committee of Inquiry (or the Commission which I suggested) being empowered where they thought fit to recommend to His Majesty's Privy Council that convictions by Martial Law Commissions and Martial Law Summary Courts might be annulled or modified. My Lord, this Act to which I make reference supplies further reason in support of my proposition. It is said by the Hon'ble the Home Member that the Government of India are going to appoint two High Court Judges to review sentences passed by Summary Courts. My Lord the Government of India cannot constitute a court. The Government of India cannot constitute a regular court. The Governor-General in Council can no doubt introduce martial law and con-

stitute certain courts under martial law, but the Government of India cannot constitute a regular court

"If these two High Court Judges are to revise certain martial law sentences, they will not be a court. They will only be advisers, very honourable advisers of the Government of India in respect of the cases which the Government of India may deal with. But I submit with confidence, notwithstanding what the Hon'ble the Law Member may say to the contrary on this point, that the Government of India cannot by appointing two High Court Judges to revise sentences passed by martial law officers invest them with the authority of a legal court . . .

The Hon'ble Sir William Vincent — "I never suggested anything of the kind."

The Hon'ble Pandit Madan Mohan Malaviya — "I thank the Hon'ble the Home Member for removing my doubts on the point. I should like to know, then, what will be the position of the two Judges. I should feel grateful to the Hon'ble the Home Member if he will make the point clear. It will save time, I wish to know if they are merely to advise whether their opinions will be merely recommendations to be considered by the executive Government or whether they will have power to wipe out convictions, or to remit or reduce sentences. I should be very grateful if the Hon'ble the Home Member will enlighten me on that point."

(At this point the Hon'ble Mr Malaviya resumed his seat.)

The President — "The Hon'ble Member will proceed with his speech."

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, I take it, in the absence of any explanation from the Hon'ble the Home Member that the matter is left vague. I take it that in the absence of further information these two Judges will be merely advisers to the Government. I submit that that will not be a satisfactory position. Next, I should like the Government to consider the propriety of including in the terms of reference some direction such as that contained in section 50 of the Cape of Good Hope Act, to which I have referred. In view of what has been said and has not been contradicted or controverted, it is time for the Government of India to make up its mind to release the persons who are undergoing imprisonment from further humiliations and hardships. I submit that this is a suitable moment for the Government to consider this matter. If the Bill proceeds as it is, then, I submit, the position will be this. We do not know how long these High Court Judges may take to deal with the cases to be entrusted to them, the procedure has not been indicated, and therefore no one can form any idea of the time the revision will take. Till then, every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence or

until released by the Governor General in Council or otherwise discharged by lawful authority. I submit that that is not a satisfactory position particularly in view of the remarks which the Hon'ble the Law Member made. He said he had consulted the Government of the Punjab and it was of opinion that it would be dangerous to let off many of the men who were undergoing imprisonment at present and who were under sentences passed by martial law authorities. I would suggest that it should be pointed out to His Honour the Lieutenant Governor of the Punjab that if there are persons who are considered dangerous, there are provisions under the existing enactments by which they can be taken up and judicially proceeded against and confined. There are many provisions under the existing enactment which enable the executive Government to proceed against persons of doubtful or dangerous character and bind them over to keep the peace and to be of good behaviour. It is open to the Government to have them tried in the regular court in the ordinary way. Great complaints have been made that these convictions are intended to be illegal. The Hon'ble the Home Member has practically admitted the truth of this contention and unless some provision such as I am referring to is enacted these unhappy men will continue in jail. That being the position I submit that these men should at an early date be set free to enjoy the liberty to which they are entitled and if they are not entitled to that liberty by reason of any act of wrong doing the ordinary courts of law should be allowed to deal with them. I need hardly draw attention again to the remarks of Lord Halsbury but it is my duty to refer to certain information which has been printed and reproduced in an excellent volume by Sheikh Naba Baksh a Vakil of the Punjab High Court. Your Lordship and the Council would have noted what Lord Halsbury states in his article on martial law in the Laws of England that the powers of the military authorities cease, and those of the civil courts are resumed *pro facto* on the termination of disorder. Disorder terminated long long ago in the Punjab and martial law was also discontinued partly in May and partly in June, and finally last month. I think it was about the 25th or 28th of August. Therefore, the course I am suggesting is the right course to be pursued; let there be such a provision enacted as that to which I have drawn attention, section 5 of the South Africa Act, to secure the early release of persons now undergoing imprisonment, unless it be a case of murder or arson let even these men be proceeded against in the ordinary way. Given these men the right to choose in the matter and some may not choose to have a fresh trial.

My Lord, it is important to bear in mind the limitations of martial law. They have been very carefully explained in various places. For instance, Justice Sir James Fitz James Stephen, in his book on the History of Criminal Law of England, says, "I will read only his summing up to save time. He says, 'I will sum up

The President :— I understand it is your summing up also.

The Hon'ble Pandit Madan Mohan Malaviya :— No my Lord I am not reading the summing up of Sir James Fitz James Stephen.

The President :— All right, proceed."

The Hon'ble Pandit Madan Mohan Malaviya —“ He says :—

‘ I may sum up my view of martial law in general in the following propositions — 1. Martial law is the assumption by officers of the Crown of absolute power exercised by military force for the suppression of an insurrection and the restoration of order and lawful authority. 2. The Officers of the Crown are justified in any exertion of physical force, extending to the destruction of life and property to any extent and in any manner that may be required for the purpose. They are not justified in the use of cruel and excessive means but are liable civilly or criminally for such excess. They are not justified in inflicting punishment after resistance is suppressed, and after the ordinary courts of justice can be reopened. The principle by which their responsibility is measured is well expressed in the case of *Wright versus Fitzgerald*. Wright was a French Master of Connell who after the suppression of the Irish rebellion in 1798

The President —“ The Hon'ble Member really must not repeat himself. We have already had the case of *Wright versus Fitzgerald* for half an hour ”

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, I am quoting the summary of Sir James Fitz James Stephen

The President —‘ I am quite aware of that. But we have all heard the case of *Wright versus Fitzgerald* for half an hour this afternoon, and I do not propose that we should hear it again ’

The Hon'ble Pandit Madan Mohan Malaviya —“ Very well, my Lord. Then Sir James Fitz James Stephen proceeds to say —

3. The courts martial, as they are called, by which martial law in this sense of the word is administered, are not properly speaking, courts martial or courts at all. They are merely committees formed for the purpose of carrying into execution the discretionary power assumed by the Government. On the one hand, they are not obliged to proceed in the manner pointed out by the Mutiny Act and the Articles of War. On the other hand, if they do so proceed they are not protected by them as the member of a real court martial might be, except in so far as such proceedings are evidence of good faith. They are justified in doing, with any forms and in any manner, whatever is necessary to suppress insurrection, and to restore peace and the authority of the law. They are personally liable for any acts which they may commit in excess of that power, even if they act in strict accordance with the Mutiny Act and the Articles of War.*

*For full text of Sir Fitzjames Stephen's remarks on the subject, see Appendix IV, pages 267—268, *ante*

Therefore, my Lord disorder having been suppressed and the ordinary courts of justice being at work, cases of persons who cannot be released entirely might well be referred to such courts. I will refer to one other opinion namely that of Mr R. Spankie a former Advocate-General of Bengal. Writing on the proceedings of a court martial held under Regulation X of 1804 in April 1818 Mr Spankie said :—

The manifest intention of Government in its legislative capacity was, that none but cases of the simplest and most obviously criminal nature should be the subject of trial by the courts martial; the fact, whether a person was taken in the actual commission of an overt act of rebellion or taken in the act of openly aiding and abetting the enemies of the state or taken in open hostility might safely be tried by such courts; and such a provision for trial was calculated to prevent military severity in the field becoming absolute massacre. But all complex cases depending upon circumstantial proof and requiring either a long examination of facts or a discriminating inference from facts in themselves equivocal were purposely withdrawn from the cognisance of these tribunals. It never was intended that courts-martial should try as those have done, acts even of criminal nature, in which the prisoner was not taken and unless the acts were open overt acts and of the most material palpable quality †

My Lord for all the reasons I have stated I submit that the provisions of the Bill as they stand are unsatisfactory and leave should not be given to introduce it now and in its present form. Now if the Bill is not introduced now my Lord and in its present form, as I have said before, not much harm will be done and the Government will be in a much better position to deal with the matter after the report of the Committee of Inquiry. On the other hand, my Lord grave injustice and disadvantage are likely to result if the Bill is passed at present. Of course, it is in the power of your Excellency's Government to pass the Bill. We know it. We have had recent experiences to convince us of it. You do command a large official majority in this Council. The representatives of the people are few and several of these few are absent at present. But I submit, my Lord, in this matter it would be right and proper that your Excellency's Government should consider what the public opinion of the country is. (*The clock here struck six.*) Shall we stop now?"

The President;— Is the Hon ble Member concluding his speech?"

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord, I should like to conclude to-morrow "

The President — The Council will now adjourn till 11 o'clock to-morrow. We shall sit from 11 to half past 1 and we shall sit again from 3 until we finish."

†For full text of Mr Spankie's opinion see Appendix IV pages 233—238, *ante*

(6)—From Proceedings of Meeting held on September 19, 1919

The Indemnity Bill—(*contd*)

The Hon'ble Pandit Madan Mohan Malaviya —“My Lord, before I conclude I would like to draw attention to two other matters relating to the Bill which are to my mind of great importance. One is that section 6, the saving clause, says —

‘Nothing in this Act shall prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever’

“This no doubt reserves to the Government the right of instituting any proceedings by or on behalf of the Government against any person. But, the right of private individuals to bring any suit or to institute any legal proceedings against any individual is restricted by the provisions of clauses 2 and 3. Now, my Lord, I have already submitted that clause 2 of the Bill bars a suit. It says —

‘No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government . . . in respect of any act . . . done . . . for the purpose of maintaining or restoring order, *etc* , provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes’

“And then comes section 3 which says —

‘For the purposes of section 2 a certificate of a Secretary to Government that any act was done by the orders of any officer of Government shall be conclusive proof thereof, *etc* , unless the contrary is proved’

“Now, my Lord, the result of these two clauses taken together is, as I have submitted before, practically to make the chance of success for any private individual very small, and I submit this is not right. I want to illustrate how very unjustly the provisions of this Bill will operate to make it difficult for any individual, who may have been injured, to obtain justice. I would like to draw attention to one concrete case which occurred at Amritsar. That case is the case of Mr. Gurdial Singh Salariya, Barrister at law. This gentleman was in the District Court along with several others on the 10th of April, 1919, when he heard that there had been trouble owing to the deportations, and that the mob had been fired upon. He and other pleader friends consulted together and resolved to inform the Deputy Commissioner that they thought they might go and help, and with his consent, went to try and quiet the trouble. They did go there, and this gentleman and his friends who were with him laboured for a long while to quell the mob and to turn them back. He succeeded also to a large extent in sending back part of the mob from the

railway overbridge and, in order that he might do his work better obtained the loan of a horse from a policeman with the help of the Deputy Commissioner and rode about appealing to people to go back. While he was doing this, the military fired upon the mob. There was a crowd near the overbridge; he found the military ready to fire and he shouted out at the top of his voice to stop. He requested the Deputy Commissioner to give him some time to persuade the crowd to go back, and while he was doing so, they began to fire upon the crowd all at once without warning this gentleman that they were going to do so. Luckily he escaped. The Deputy Commissioner in his statement before one of the Martial Law Commissions said that this gentleman, Mr. Gurdial Singh, went with his permission to push back the mob and that he was genuinely trying to do so. He further said that owing to a dangerous rush of the crowd, it was necessary to fire while Gurdial Singh was trying to keep them back and that he had been pointed out to the soldiers as a friend. He ran serious risk of being shot and deserves credit for having tried to quell the mob in a brave and determined manner. This was the statement made by the Deputy Commissioner of Amritsar in the case when Mr. Gurdial Singh was tried. Now my Lord, having done what he did to quell the mob, Mr. Gurdial Singh went home. This was on the 10th of April. On the 23rd of May a policeman, a constable in white clothes, went to him in court and asked him to accompany him to the Kotwali, where he was wanted by the police. He went there and was placed before the Deputy Superintendent. I think. He was asked a few questions and was politely told that he was to go to jail where he was to be confined. Now my Lord this gentleman was kept in Amritsar for two days or so and then he was removed, handcuffed, to Lahore. On the morning of May the 26th, he was made to walk on foot from the railway station at Lahore to Montgomery Hall, and was kept there the whole day sitting on the ground. Then, my Lord, he was removed to the Central Jail and was put in an iron cage, seven feet by 20, although his guardian had paid Rs. 30 in order that he might be put in another place. He was removed the next morning to that other place but was not long there and was sent on to another jail.

This gentleman was arrested on the 23rd, and was put on his trial on the charge of having taken part on the 5th April, 1919, to bring about *hartal* on the 6th. It was proved by the evidence of a surgeon, I think a civil surgeon that he was lying ill at home on that day. The second charge against him was that he was a speaker at the meeting of the 6th April, the great *Satyagraha* day meeting. He did admit that he did take part, and all glory to him for having taken part in that meeting. The third charge against him was that he had incited the mob at the railway bridge, on the 10th April, when he had at the risk of his life, tried to send back the mob to the city and further that he had on horseback gone down to the city and delivered an inflammable speech. Now my Lord, as I have said before, the Deputy Commissioner was examined and he deposed to the fact that this gentleman had honestly endeavoured at the risk of his life to quell the mob, and to send them back to the city. The question put to the

Deputy Commissioner was 'Do you know is a fact that Gurdial Singh Salariya did his best to keep the mob back on the 10th April 1919?' The answer was, 'Yes, this is the only conclusion to be drawn from the action I saw.' Then the question was 'Did you actually see him shouting to and entreating the mob on the carriage bridge to disperse?' and the answer was 'Yes, I remember him distinctly as he swarmed up a lamp post to address the crowd better.' Then he was asked, 'Did his attitude and efforts against the mob appear to you genuine?' The answer was 'Yes, I certainly think they were genuine.' Then again, 'Was Gurdial Singh in danger of being shot when he was roaming about facing the mob and telling them to get back and thus did real service?' The answer was 'Yes owing to the dangerous rush of the crowd it was necessary to fire while he was trying to keep them back and though he had been pointed out to the soldiers as a friend he ran serious danger of being shot. He deserves credit for having tried to keep the crowd back in a brave and determined manner.' Now, my Lord, in spite of all that this gentleman had done, he was put on his trial and kept in jail from the 23rd May for nearly a month and a half. He was subjected to all the indignities and to all the humiliation and trouble to which I have referred. In the judgment in his case the Martial Law Commission said 'This accused was present at the meeting of the 6th April (That of course was a crime in the eye of the Commission). But we are not satisfied that he had joined the conspiracy. His actions on the 10th April as deposed to by the Deputy Commissioner indicate that he was supporting the authorities to the best of his powers and at some risk to himself. Huns Raj (the approver) does not attribute any acts to him, merely saying that Gurdial Singh had told Bashir that he had done what he could on the 10th. Mr Herbert (the Crown Advocate) did not press the case against him and we acquit him.' Now, my Lord, I should like to ask what would be the position of Mr Gurdial Singh if he was to seek some compensation, some remedy for the gross, unjustifiable wrong done to him? Here is a man who at the risk of his life rendered service to the Government and the public at the time of the disorders. While the Deputy Commissioner and the police superintendent who saw him work at the railway bridge were still in Amritsar, this gentleman was arrested and *challanned* in a humiliating manner and kept in jail for a period of a month and a half, had to undergo all the anxiety, trouble and indignity and humiliation of arranging for his defence and had to thank God that he was acquitted after all. Is he, if this proposed Bill is passed, to be defeated in a suit, unless he can swear that there was in the minds of his assailants and persecutors a malicious intent? Or is it right that he should be able to go into the Court, state the facts and ask his persecutors to plead whatever excuse or justification they may have to plead for these acts? Which will be the right course? Which will be the fair procedure? I submit, there can be only one answer. The gentleman has been obviously unanswerably wronged. You are by this Bill shutting him out from having a chance of success in a suit for damages, by the provisions you have incorporated in this Bill. He may go with his

plaint into a Court, and the answer will be that no suit will lie unless it is proved by the plaintiff that the defendant had not acted in good faith and in a reasonable belief that the steps he had taken against the plaintiff were necessary for the purposes of maintaining or restoring order. I submit, my Lord, I cannot imagine a grosser perversion of what should be the right procedure than what is incorporated in this Bill. I have drawn attention to this case for two reasons, first, to emphasize that the provisions of section 2 and 3 are entirely unjust and ought to be entirely deleted, I mean the proviso to sections 2 and the new rule of evidence incorporated in section 3. I have also referred to it to show that though clause 6 of the Bill gives to Government the power to proceed against any person against whom they may think it fit to, the case of private individuals who may wish to proceed against those who have harassed them or subjected them to oppression has not been sufficiently taken care of. My Lord, it may be said that the Bill provides that the Government can proceed against any person in respect of any matter and that it will be only reasonable to expect that in a case like the one I have mentioned the Law Member and the Home Member would advise the Government of India to institute a suit to find out who were the persons who were responsible for all the humiliation and indignity and suffering inflicted upon Mr. Gurdial Singh and to bring them to trial. That should ordinarily be the case, my Lord; but unfortunately in the circumstances of the situation it is not given to private individuals who have suffered to expect, to have a reasonable expectation, that such a course would be pursued. I regret to say it, but it is a fact which I ought to mention that, while I have heard much indignation expressed at the acts of lawlessness that were committed—some sections of the mob, I have not heard one word of sympathy from the Government benches with those who lost their lives, or with their relatives or with others who have suffered in consequence of recent troubles, except with my European fellow-subjects for whom I share the sympathy with members of the Government. My Lord, it has been a sad thing for me to reflect that while such outrageous events have happened, while the casualties have been ascertained to the extent that has been done, there should not have been one word of sympathy expressed on behalf of Government with these men who have suffered.

The Hon'ble Sir William Vincent :— May I offer a word of explanation? I said quite definitely in this Council that no one deplored the loss of life more than I did. It is unfair to say that I did not express any sympathy with those who suffered.

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord, I take it, I will accept it, that the Hon'ble Member did mean to express sympathy with Indians.

The Hon'ble Sir William Vincent :— Not only mean to, but I did do it."

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, I am glad to be assured, that the Hon'ble Member did express sympathy with Indians as well as Europeans who had suffered. But I still expected a more sympathetic attitude on the part of Government in order to give an assurance to the public that if there are any cases in which the facts found justify such a course, the Government will itself proceed to bring the offenders, the wrong doers, the oppressors of His Majesty's subjects to trial.

“And this brings me to one other aspect of the question, and that is the question of compensation for the damages sustained by the people. In the Cape of Good Hope Act, VI of 1900 there is a whole chapter devoted to the provision for compensation for damages sustained by the people from military operations. Now, what does section 5 of the Bill before us provide? It says—‘Where under martial law the property of any person has been taken or used by any officer of Government whether civil or military the Governor General in Council shall pay to such person reasonable compensation for any loss immediately attributable to such taking or using to be assessed upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by Government in this behalf.’ My Lord, the Bill confines itself to compensation for loss of property used for military purposes. But what about the lives that have been lost in military operations? Lives that are much more valuable than any property lost. I submit that the proper course would be to incorporate in this Bill a provision to the effect that a Committee should be constituted under this Act and it should have power to decide what compensation should be given to those who have suffered loss of life or limb as well as to those who have suffered loss of property. In this respect the Bill is defective, and for this reason also I submit that the Government should reconsider the matter.

“The Council will have noted that my proposal is not that no Indemnity Bill should be introduced and passed but that such a Bill should not be introduced at present, that it should be kept back until the Committee of inquiry has reported. I would point out that this is not such a wide suggestion as it may seem to some people. After the dark days of the Mutiny the Government was in no hurry to pass an Indemnity Act. The Indemnity Act was passed in the year 1860, it received the assent of the Government of India on the 27th August 1860, that is, two years after the mutiny had been suppressed. I submit, my Lord, that the Government would not be unwise, and that no interests would be jeopardised if the Government do not proceed with the Bill at present. I am strengthened in urging this before the Council by the reports which I have received, newspapers, telegrams and letters have been coming to me from different places expressing a deep sense of dissatisfaction among the general Indian public with the decision of the Government to proceed with this Indemnity Bill. I will read out a telegram I have received from Lahore. It runs—‘Members of the Indian Association, Lahore, respectfully enter their emphatic protest against the statement made by the Hon'ble Malik Umar Hayat Khan at the recent meeting of the Imperial Legislative Council that the people

of the Punjab I do not want a Commission of Inquiry into the happenings of April 1919. A matter of fact the entire province demands a searching investigation by an Imperial Commission unconnected with the administration of the country. The fact that public meetings of protest cannot be held owing to Ordinances and official order should not be misconstrued. They wish further to give expression to strongly felt public opinion of the Punjab that passing of the proposed Bill at the present stage will not only be premature but also prejudicial to the conduct of proper inquiry. There will be ample time for enactment of a Law for the protection of officials after the Commission of Inquiry has pronounced its verdict. As to the necessity of a declaration of martial law and suggestions of measures and methods adopted in its working. The Punjab Association feel in any case that there is absolutely no necessity for validating sentences illegally passed by Military Courts and officers. They pray that the Government will please to abandon the Bill at present. This is one of several telegrams received from all parts of the Punjab in which the public opinion has expressed itself. Sir Arden Chamberlain, Vice-President of the National Liberal Association, cabled the Secretary of State and to your Excellency a few days ago praying among other things that the Indemnity Bill should be abandoned at the present stage, as its necessity depends on the result of inquiry by the already appointed Commission. Then again, my Lord Ditcher in *Capital* has said that it is obvious that after the passing of the Indemnity Act the findings of the Committee will be of purely academic interest. The *Daily News* of London has observed in referring to the proposed Commission that the provision for a complete whitewashing of the official policy of the Punjab is made doubly certain by the resolve to protect officials by the Act of Indemnity before the inquiry is entered on. This policy for which there is no defence recalls the disastrous action taken after the Ceylon disturbances in the first year of the war. By such un-British tactics the British name is besmirched. The Indian papers have almost without exception written strongly against the policy of proceeding with this Bill before the Committee has made its report. There is hardly time for me to refer to the opinions of the *Leader*, the *Bombay Chronicle*, the *Nation*, the *Bangalore* and other papers. But I think it necessary to invite attention to a very valuable article from the pen of Sir Narayan Chondanekar which has been published in the *Indian Social Reformer*. The other day the Hon'ble the Home Member relied upon a letter published by an anonymous Indian student of constitutional law for support of his view in introducing this Indemnity Bill. I was rather taken aback. It seemed to me to be a great fall for the Hon'ble the Home Member of the Government of India to refer to an anonymous writer for support of the policy decided upon by the Government of India. However that is the concern of the Hon'ble the Home Member. I now present to him a very valuable contribution to the discussion of this Bill, the opinion of a gentleman who has acted for years as an honoured Judge of the Bombay High Court, officiated for some time as Chief Justice of that Court and was also Chief Justice in Indore for several years. On important

occasions he has put the Government and the public of India under an obligation by expressing well considered opinions on constitutional questions. Writing in the *Indian Social Reformer*, Sir Narayan Chandavarkar says* 'Surprise is expressed in some quarters that Indian politicians of all shades of opinion have approved the decision of the Government of India in introducing an Indemnity Act in the Imperial Legislative Council at the earliest convenient moment for indemnifying all the officers in respect of their acts in connection with the recent disturbances.

The authority of the constitutional lawyer A V Dicey is cited in support of the principle and policy of the measure. But here is what Mr Dicey says in his book, called *A leap in the dark*.¹ My Lord, I may mention that this book—'A leap in the dark'—was published in 1893. Its purport was to examine the leading principles of the Irish Home Rule Bill which was introduced in that year in Parliament. In Mr Dicey's opinion one of the most important defects of that Bill was, that its provisions relating to the restrictions on and safeguards against the legislative power of the contemplated Irish Parliament contained no prohibition against the passing of an Act of Indemnity by that Parliament. Mr Dicey said in that book —

'Of all the laws which a legislature can pass an Act of Indemnity is the most likely to produce injustice. It is on the face of it the legalisation of illegality, the hope of it encourages acts of vigour but it also encourages violations of law and of humanity. The tale of flogging Fitzgerald in Ireland, or the history of Governor Eyre in Jamaica, is sufficient to remind us of the deeds of lawlessness and cruelty which in a period of civil conflict may be inspired by recklessness or panic and may be pardoned by the retrospective sympathy or partisanship of a terror stricken or vindictive Legislature.'

'Further on he writes —

'An *ex post facto* law is the instrument which a legislature is most apt to use for punishing the unpopular use of legal rights. There is not a landlord, there is not a magistrate, there is not a constable in Ireland who may not tremble in fear of *ex post facto* legislation. There is no reason, as far as the Home Rule Bill goes, why the gaoler who kept Mr William O'Brien in prison or the warders who attempted to pull off his breeches, should not be rendered legally liable to punishment for their offences against the unwritten law of Irish sedition. No such monstrosity of legal inequity will, it may be said, be produced. I admit this, but the very object of prohibitions' (against the passing of an *ex post facto* law) is the prevention of outrageous injustice. The wise founders of the United States prohibited to Congress and to every State legislature, the passing of *ex post facto* legislation.'

*See Appendix V, pages 294—296, *ante*

My Lord, dealing with the particular Home Rule Bill and commenting upon the absence from it of a prohibition against the passing of an Indemnifying Act, Mr Dicey said that it was necessary that there should be such a prohibition. He said :—

Circumstances no doubt may arise in Ireland, as in other countries, under which the maintenance of order or the protection of life may excuse or require deviation from the strict rules of legality. But the question whether these circumstances have arisen will always be decided far more justly by the Parliament at Westminster than it can be decided by the Parliament at Dublin. Can anyone really maintain that a Parliament in which Mr Healy or for that matter Colonel Saunderson might be leader would be as fair a tribunal as a Parliament under the guidance of Mr Gladstone or Lord Salisbury for determining whether an officer who, acting under the directions of the Irish Government and with a view to maintain order at Belfast or Dublin, should have put an agitator or conspirator to death without due trial, had or had not done his duty.

My Lord, as Sir Narayan Chandravarkar says, substitute India for Ireland and substitute Simla for Dublin and so on, and it would appear that the passage applies very much to the proposal now before the Council. I submit that in view of these very weighty expressions of opinion, the Government would be wise in postponing action in this matter of an Indemnifying Bill. My Lord it is open to the Government, it is in the power of the Government, as I said yesterday to pass the Bill by the official majority which it commands. But I appeal to your Excellency to reconsider this question and not flout public opinion which has been so widely expressed in this matter. My Lord it may be that the Government can carry on the administration of the country without paying heed to public opinion but it is not the right thing to do so. The right thing to do is to act in accordance with the principles of justice for which the blood of Britons and of Indians was shed in the last great war to do that which is right, to do that which truth, justice and honour demand; and in this matter truth, justice and honour demand that where so many deplorable acts have been committed where so much illegality has been practised, where so many indignities have been offered, when there are such serious allegations regarding the action of His Majesty's officers, civil and military when there are serious allegations regarding the attitude of the Government of India itself in the matter of the Punjab administration during the last few months, I submit, my Lord that truth, justice and honour demand that you should stay your hand and to let this Bill lie over until the Committee of Inquiry has reported. When the Committee of Inquiry has submitted its report, I venture respectfully to say that the right course for the Government of India would be to submit that report to His Majesty's Govern-

ment and to consult them, in view of the facts which will then be established, as to which acts of the officers of His Majesty's Government, civil or military, should be indemnified, and also as to what compensation should be offered on behalf of the public, that is the Government, to those who have suffered unjustly during these disturbances and operations. I ask, my Lord, for an attitude of greater sympathy, an attitude of greater desire to do justice between man and man, between Indian and European, between one fellow subject and another, not in any vindictive spirit, not in any revengeful spirit, but purely with a desire that justice should be done, and that right should triumph. It is for these reasons, that I most earnestly appeal to your Excellency and to your Excellency's Government to reconsider the matter and not to proceed with this Bill. If this is done, my Lord, the whole country will feel grateful, both in England and in India public opinion will feel that your Excellency's Government have rightly considered the force and the weight of public opinion and respected it. My Lord, the mightiest Government has to bow to public opinion. It so happens that the public opinion in India is not powerful enough to make itself felt by Government, but, I submit, that we should guide ourselves in such matters and on such occasions by what we find in England, and I venture to say with great respect that no Government in England would have dared to bring forward a Bill of this character in the circumstances which have been disclosed in this debate, and I, therefore, submit, my Lord, that though the Government here, has the power, it ought not to exercise that power, and ought to wait until the Committee of Inquiry has reported. I make this appeal in the name of those who have lost their lives, in the name of those who have lost their limbs in these recent disturbances, in the name of those who have suffered indescribable indignities in the name of those who are undergoing imprisonment at this moment unjustly in His Majesty's jails, in the name of those women who are mourning the loss of their husbands, their relations, or sons,—in the name of all those, my Lord, I appeal to your Excellency's Government to stay the hand of Government and to wait for the Committee of Inquiry. When the Committee of Inquiry will have reported, both the Government and the public will be able clearly to see what are the facts, and what is the right course to pursue in those circumstances. Every reasonable man in this Council will then offer his support to the measure that may then be proposed.

“In view of these circumstances, my Lord, this is what the situation demands. I hope that your Excellency's Government will not judge this matter merely by the opinions of a few members who have the privilege of sitting in this Council. I hope, in deciding this matter, your Excellency will bear in mind the vast volume of Indian opinion outside this Council and also the opinion in England. If you will decide with due regard to that opinion, I have no doubt that your Excellency will come to only one conclusion, and that is, to postpone the introduction of this Bill till the Committee of Inquiry have reported.”

The Honble Mr. J P Thompson —“With your Excellency's permission, I should like to make a few remarks on the amazing speech, to the last quarter of

which we have just been privileged to listen. I do not propose to touch on the legal questions, or questions of constitutional law which have been raised by the Pandit. They will no doubt be dealt with by the Legal Member if he thinks there is anything in them that merits a reply. Nor do I propose to deal with the details of the administration of martial law by military officers; that is a matter for one of my military colleagues to deal with. Nor again shall I touch on the general questions or the justification for the introduction of martial law the alleged provocative action of the Punjab Government in deporting Kitchlew and Satyapal and excluding Mr. Gandhi from the Punjab, or such other matters of general nature. I propose to confine myself to the specific allegations which have been made by the Pandit of misconduct and maladministration on the part of civil officers who were responsible for the administration of justice during the period of martial law. Before I start with allegations made by the Hon'ble Pandit there were two remarks which fell from the speaker who preceded him which, I think, require a passing notice. The first point was the statement made by Mr. Chanda that on the 11th of April orders were issued by the Punjab Government prohibiting the publication of any accounts in the newspapers. The order that was passed, my Lord, was an order requiring any newspaper whether English or Indian to submit any accounts which it proposed to publish of the events which had taken place for pre-censorship before publication. It was an order which, as I have said, applied both to the English and the Indian press, and there was nothing whatever to prevent any newspaper which desired honestly and for the public good to publish true information from publishing it.

The second point in Mr. Chanda's speech on which I wish to make an observation is, his allegation that it was out of revenge for the fraternisation between the Hindus and Muhammadans at the festival of *Ram Navami* on the 9th of April that Sir Michael O'Dwyer excluded Mr. Gandhi. Now my Lord, I have the greatest admiration for Sir Michael O'Dwyer but I do not think that any one here would claim for him that he was a prophet. The fraternisation at the *Ram Navami* took place on the 9th of April; the orders for the exclusion of Mr. Gandhi were passed, so far as I remember some 48 hours before that fraternisation took place.

I now come, my Lord, to the allegations which have been made by the Hon'ble Pandit. I am afraid my remarks must of necessity take rather a discursive form, but I do not see that I can deal with the allegations which have been made in any better form than by taking them in the order in which the Hon'ble Member has made them and I think in all the cases with which I shall deal I shall be able to show the Council that the story which has been given by the Pandit is a distortion or an exaggeration, or a misunderstanding of the facts. The first case he mentioned was that of the exclusion of a gentleman from the Punjab who was so well known that the Pandit could not even give us his correct name; he called him Mr. Hume.

The Hon'ble Pandit Madan Mohan Malaviya:— Mr. C. F. Andrews.

The Hon'ble Mr J P Thompson —“ His real name was Mr. C. F. Andrews, but the Pandit called him Mr. Hume. Now, my Lord, the facts in regard to the exclusion of Mr Andrews are these. On the 5th of May the Punjab Government received a telegram from the editor of the *Independent* newspaper at Allahabad saying that he, along with the editors of the *Bengalee*, the *New India*, the *Amrita Bazar Patrika*, the *Hindu* and the *Leader* proposed to depute Mr Andrews to the Punjab with a view to report to the Indian press on the condition of affairs in the Province with special reference to the administration of martial law. Now, my Lord, at the time when that request was made, two of the papers on whose behalf it was made had been excluded from the Province—one more of them has been excluded since—and almost all of them have distinguished themselves by the bitterness of their attacks on the Punjab Administration. Now, my Lord, I put it to the Council, if these papers wished to obtain the good offices of the Punjab Government with the military authorities in order to enable Mr Andrews to enter the martial law area, was this quite the most tactful way of doing it? Could the Punjab Government be expected to use their good offices on behalf of newspapers whose bitter criticism, whose unfair criticism of what had been done had earned for them exclusion from the Province? I do not think there is a single Member here, my Lord, who will answer that question in the affirmative.

“ I now pass on to the Pandit's allegations about the Jallianwala Bagh. I do not wish to dwell on this extremely painful incident, but I merely wish to offer one or two remarks in regard to the number of casualties. The Hon'ble Member has hinted that more than a thousand persons were killed there. He told us yesterday that his latest information was that 530 had been traced. Now my Lord, I daresay we shall never know the exact number of persons who met their deaths in that garden. But what the Punjab Government have done is this. We made a proclamation in Amritsar and in the surrounding villages inviting all persons who had any information in regard to the names of those who had met their deaths there to come forward and give that information to Government. We knew that private organisations were at work collecting information on the same subject. We gave instructions to the local authorities that they were to see that this proclamation was brought to the notice of those persons so that they might have no excuse for not coming forward and giving us any information that they possessed. I make no doubt, my Lord, that that proclamation also came to the notice of the Pandit. Our enquiries show that the total was 291, and I claim that any information which asks us to accept figures beyond this must be received with the gravest suspicion.

“ I now come, my Lord, to the case of the Badshahi Masjid. In this case an Inspector of the C I D was assaulted in the Badshahi Masjid in Lahore on the 12th April.

The facts as given in the judgment are as follows —

On that day — on the 12th of April, — a meeting with political objects was held in the Badshahi Mosque Lahore which was to be addressed by leading Hindus. Many Hindus were present and many people armed with sticks. Maulvi Abdul Hal, having recognised Chandhri Ali Gauhar C. I. D. Inspector who was present in plain clothes, made an inflammatory speech against the C. I. D. in general saying that no progress with their objects was possible until the C. I. D. were eliminated. He pointed out Ali Gauhar as an object of immediate attack and the others then set upon Ali Gauhar who was beaten with sticks on the body. His assailants had him at their mercy but did not kill him.

Now what is the story to which the Hon'ble Member gives the weight of his authority in regard to the origin of that attack. He tells us that that Inspector had drawn on himself the resentment of the crowd by certain remarks that he had made. I have before me my Lord, the record of that case. I have been through the whole of the evidence from start to finish, and there is not a suggestion anywhere, neither in the statements of the witnesses for the prosecution nor in the statements of the witnesses for the defence, nor in the statements made by the accused themselves, nor is there any hint in the cross-examination of the witnesses for the prosecution, of this story which the Hon'ble Member has told us.

Now my Lord, I do not wish to use hard words about the Pandit, but I put it to the Council that the suggestion that he has made is not one which comes within the limits of fair controversy stretch them how far you will. In this Council, my Lord we are all supposed to be Hon'ble Members. It is a title that is given to us on account of the position we occupy and not with regard to the moral character of members who occupy that position. But I do claim, my Lord, that that title justifies the public in expecting from members who speak in this Council a standard of honour and fair dealing, straight dealing, which, I think, the Pandit has failed to reach in the present instance.

The Hon'ble Pandit Madan Mohan Malaviya :—“ I am sorry for that ”

The Hon'ble Mr J P Thompson :— The next allegation with which I will deal is, one to the effect that the electric and water-supply of the whole city of Amritsar exclusive of the Civil Lines, was cut off for about five days, about the 12th of April last, and that a large number of wells in the city of Amritsar had been closed under recent orders when Mr King was Deputy Commissioner there. I understand that six wells were so closed. As regards the stoppage of the supply of electricity on the 10th

of April the mob attacked the power house and stopped the electric light plant working. On the 11th, they prevented repairs being done and power was cut off that evening by order of the General Officer Commanding and remained cut off until the 19th. As regards the water supply, I am informed that on the night of the 10th the water supply was cut off by the Municipal Engineer, as there was a rumour in the city that the supply had been poisoned, though who published that rumour I cannot say, but it was found necessary to shut off the supply again on the following day, and it remained shut off until the 14th by order of the General Officer Commanding.

"The next incident that the Hon'ble Member dealt with was another Amritsar incident. He told us that several very respectable people, undertrial prisoners, including bankers, lawyers, doctors and so on—the class of people, in brief, who always 'rot' when sent to jail—were handcuffed in pairs and confined for several days in the racket court at Amritsar where they were subjected to several kinds of inconvenience. Temporary arrangements were made for the confinement of prisoners in the racket court in Amritsar, they were provided as soon as possible with shelter, but they were not handcuffed, so I am informed, for more than two or three days. And the picture which the Hon'ble Member has drawn of the inconveniences to which they were put is very largely exaggerated. I would remind the Council that at the same time at which these honourable gentlemen were confined in the racket court, English women and children were also confined in the Fort because of the violence of people outside. They remained there some days deprived of all the comforts and conveniences that they had in their own houses, and in some cases without even the decencies of ordinary life. Is this Council going to condemn the temporary arrangements which were made for these respectable gentlemen of Amritsar, when it finds that English women and children were subjected to not dissimilar inconveniences within a few yards of the place where these people were confined?

"I now come on, my Lord, to the case of Gujranwala. The Hon'ble Member told us that on the 15th of April last Colonel O'Brien, Deputy Commissioner of Gujranwala, with a strong body of police and soldiers and an armoured car marched round the city arresting people right and left, that the persons so arrested were chained together and marched to the city two and two, headed by a Hindu and a Muhammadan, with a view to ridiculing Hindu-Muhammadan unity, and that, 'in the words of Colonel O'Brien,' two Municipal Commissioners marched in front of the procession so formed and, pointing to the aeroplanes hovering overhead, kept on shouting to the people to make way for the prisoners, and that after having been paraded through the principal streets of the town, the prisoners were taken to the railway station and put into an open truck guarded by a number of European soldiers with fixed bayonets and so on. Let me read to the Council a description which

I based on information supplied by Colonel O'Brien himself to explain what it was that happened. I should tell the Council that the outbreak in Gujranwala in which such a vast amount of damage was done to Government property took place on the 14th. On the morning of the 15th Colonel O'Brien felt himself in a position to make arrests. He did not think it safe to lodge the prisoners in the local jail. In order to make certain that there would be no trouble he asked by telephone that an aeroplane and special train should come out in the afternoon. It was essential that no warning should be given to those who were to be arrested. He laid his plans accordingly. A list was prepared and a route arranged. He then started with the police to make arrests, as well as a party of British soldiers to prevent resistance. There was no armed car pleaders, barristers and others believed to be concerned in the outrages were arrested and handcuffed. As the party pursued its route a Muhammadan and a Hindu both members of the Municipal Committee went well in front to warn the people against resistance. There was no intention of ridiculing Hindu Muhammadan unity and if a Hindu was linked with a Muhammadan, it was by accident and not by design. The party arrived at the station within a quarter of an hour of the time fixed to find that the only accommodation for the escort and the prisoners was an open truck. It was nearly 5 o'clock the journey to Lahore would take two hours, and there was no time to be lost. It is possible that all concerned may have been put to some inconvenience. It is not alleged that there was anything more than this, and the essential thing was to get the prisoners into Lahore as soon as possible.

The Hon'ble Member's statement went on to deal with what happened at Shekhupura, where, he said, Colonel O'Brien had committed very much the same atrocities. The arrests at Shekhupura were made with equal celerity as he had to visit on the same day Chuharkhana, Moman, Uthban Singh and Sangla, at all of which places outrages had occurred. The Shekhupura prisoners were taken to Lahore by an armed train which Colonel O'Brien found at Chichoku Mallian.

The next atrocities to which I turn were those which were committed at Kasur. Kasur is a small place about 35 miles from Lahore where two British warrant officers were killed on the 12th. I cannot lay my hands at this moment on the statement which was made by the Hon'ble Member in regard to the outrages on respectable persons at Kasur; but it related, I remember to two pleaders, Ghulam Mohiyuddin and Abdul Kadir; it was stated, if I remember aright—the Hon'ble Member will correct me if I am wrong—that these two persons were confined for a long period many weeks, in a lock-up at the station. The facts as given by the Sub-divisional officer are as follows:—

Ghulam Mahiyuddin and Abdul Kadir were arrested and were confined in the police station; and once or twice they were detained by the military in the temporary lock-up near the station when brought from the police station with other prisoners for evidence or identifica-

tion They were released after a few days at my request in my presence by the officer commanding when I had decided that the evidence as to their being rioters was not true'

"The other Kasur case to which the Hon'ble Member referred was the case of certain boys who were said to have been flogged there The story is true Six boys, three of them belonging to the Municipal Board High School and three belonging to the Islamic School, were caned at Kasur The headmaster of the Municipal Board High School had invoked military assistance to deal with the boys who had acted very insubordinately and joined hands with the pupils of the Islamic School The officer commanding directed the headmaster to choose the worst offenders and sent them up for punishment. In addition, two school boys sent by the commission for summary trial were caned—three strokes each—by the martial law officer after trial

"The next case to which the Hon'ble Member referred was that of Mr Manohar Lal, a distinguished graduate of Cambridge University and a barrister-at-law He was one of the trustees of the *Tribune* as the Pandit told us, and the question had been raised as to whether when the editor of the *Tribune* was being prosecuted, it would be possible to prosecute the trustees too, or at any rate the resident trustee who happened to be in Lahore at the time and was believed to have taken considerable interest in the management of the paper. It is true that Mr Manohar Lal was arrested and that he remained in confinement for the space of about a month. It is not true, as the Hon'ble Member stated, that his family were kept out of his house for a week, his house naturally was locked up after his arrest, as it might have been necessary to make a search, but his family were allowed to return and did return, I understand, the very next day

"The Hon'ble Pandit then went on to tell us that hardship was inflicted on respectable persons in connection with the custody of martial law notices Now, my Lord, that is a matter which primarily concerns my Hon'ble friend on my left. But it is a matter of such vital importance to the civil population, that the meaning of these punishments, which were inflicted in regard to martial law notices and the procedure that was adopted in order to safeguard them, should be properly understood, that I make no apology for making a few remarks to the Council on the subject Martial law notices are a most important part of the machinery of martial law If you create new offences, you must advertise them, otherwise well meaning people have not a fair chance The man who tears down a martial law notice may be the cause of an honest man being shot. When such notices were first put up, it was found that they were torn down and defaced Colonel Johnson interviewed the leaders of the people and they promised to arrange for the publication of the orders in the different quarters of the city They failed to fulfil their promise Colonel Johnson accordingly decided to impose on selected owners of property the

duty of protecting them. It is true that a number of persons connected with public movements or interested in persons who had been arrested were selected, because they were *prima facie* the persons in whose custody the notices would be safest. My Lord I can say with regard to this policy that its success was ample justification for any hardships that might have been inflicted. After this class of property-owner had been made responsible for the safe custody of the notices I believe hardly any were torn down or defaced.

The Hon'ble Member then went on to state that in some cases tried by martial law officers, especially towards the close of the martial law period the accused were convicted without the whole of the defence evidence being heard and even that witnesses who were present in Court or attended the Court for that purpose were not heard. He gave the case of two pleaders, Lala Gurdasram and Lala Shivaram of Hafizabad in the district of Gujranwala. Well, my Lord I have not had time to make inquiries from each Deputy Commissioner as to what happened in his district, but I have made inquiries from the district in which this particular case occurred and the answer I have received is as follows:—

It is not the fact that martial law courts refused to hear witnesses for the defence who were present in court or attended the court for that purpose. In the case mentioned as in some others, the court exercised its discretion in not summoning certain witnesses named by the accused when such witnesses lived in distant places and the accused could allege no real reason for producing them as witnesses and it appeared they were named as such merely for purposes of vexation and delay.

From Gujranwala, the Hon'ble Member went to Lyallpur and he stated that there was a man named Ram Lok at Lyallpur son of one Daulat Ram who was arrested on the 25th April, was detained in police custody for over three weeks and then released for want of evidence that after his release his father appeared as a defence witness for one Ram Ditta and was asked to become approver but refused to do so; that on this his son Ram Lok was re-arrested on the following day for the offence for which he had been arrested and released before. He then went on to say that the trial was unduly expedited at the end owing to the approaching termination of martial law. Now my Lord, Ram Lok was not arrested on the 25th April, he was arrested on the 28th May. He was not detained in custody for three weeks; he was convicted on the 5th of June. His arrest had nothing whatever to do with the evidence given by his father on behalf of Ram Ditta and indeed the police at the time, I am assured, did not know what evidence his father had been giving in the case against Ram Ditta. Finally my Lord the accused pleaded guilty.

"The Hon'ble Member then went on to speak of men who had been sentenced to long terms of imprisonment without any evidence having been recorded or any judgment having been written. Well, I can quite understand the Hon'ble Member feeling a little bit disoriented when he deals with cases in which there are not full records. Full records are what he has been accustomed to, and it gives him something of a shock to find that a man has been sent to jail on a scanty record. I need hardly perhaps tell him that a scanty record does not mean scanty evidence; but it may be news to him to know that no court martial ever gives any reasons for its findings, and the procedure of these courts was much more that of courts martial than of the ordinary courts of law. The particular cases which the Hon'ble Member has selected are not very fortunate ones. He has taken the case of a man named Fazla, *tongawala*, who, he says, was sentenced to transportation for life for waging war against the King, without any evidence being recorded.

"I have seen the record and the Judge's notes. Two sides of foolscap are covered with the notes."

(At this point The Hon'ble Mr Malaviya got up)

The President — "Order, order. The Hon'ble Member must not interrupt. He has had his say and Mr Thompson now has the ear of the house."

The Hon'ble Pandit Madan Mohan Malaviya, — "The Hon'ble Member is wrong. I did not refer to the case of Fazla."

The Hon'ble Mr. J. P. Thompson — "The record is in the possession of Sir William Vincent. I am certain of the facts I have stated."

"The other case the Hon'ble Member mentioned was that of Hari Ram and Hans Raj. These two men were prosecuted for being in possession of Amritsar loot. It is true that in this case no evidence was recorded, but it is not true that there was no judgment. There was a judgment, which sets out the facts of the case and the reasons for the finding."

"Then the Hon'ble Member passed on to a consideration of what is known as the *salaaming* order at Lyallpur. The justification for this order is not really a matter for me, but I happen to have the record of the case he referred to, so I think perhaps I am justified in making a few remarks about it. I do not wish to justify, it is no part of my business to justify, the infliction of sentences of flogging for the non *salaaming* of British officers. But in the particular case which the Hon'ble Member mentioned, the man who was convicted had previously been warned that he was committing a breach of martial law in not *salaaming* British officers and the offence for which he was punished was his second offence."

"My Lord, the Hon'ble Member read out to the Council the judgment of Colonel O'Brien in the Ramnagar case, in which the King was burned in

effigy This case has engaged the attention of the Punjab Government. We made some further inquiries with a view to ascertaining whether the facts were as found. As the Council will gather from what the Hon'ble Member has said, the case is one which has attracted a certain amount of attention. The case was examined by two officers independently of Colonel O'Brien, and both reported, after going through the case that there was no ground for distrusting the conclusions arrived at by the officer who had tried the case. The Hon'ble Member tells us that some of the accused were not arrested till the 28th May. He then said that the people were of such position that it was impossible for them to have committed the offences that were alleged against them. My Lord, we have adduced against the reasoned judgment of an officer who had heard the evidence, an officer of long experience, who must, I think have been in charge of one district or other in the Punjab for nearly twenty years, we have adduced a misstatement and an opinion. I claim that that is not sufficient to justify Government in remitting the punishment of these men.

The last cases to which the Hon'ble Pandit referred were certain cases tried by Mr Hoyle. He said that the particulars in the judgment were scanty. The records I hold in my hand (shown to Council). This is the record of one case, 5 pages of evidence written in a small hand, and this is the record of the other case, 8 pages of evidence. The cases tried by Mr Hoyle were, as a general rule, tried with great care, and I should not be afraid to show the records to the most hostile critic.

That concludes the examination of the detailed allegations of the Hon'ble Pandit. I trust I have succeeded in convincing the Council that the allegations made by the Pandit show a degree of credulity not to say gullibility lack of proportion and a power of closing his eyes to everything that can possibly be said on the other side, that justify me in saying that it is difficult any longer to have any confidence in his power to appreciate any political situation, or his willingness to admit that there is anything whatever to be said in favour of those who are unfortunate enough to differ from him. As regards the Hon'ble Pandit's credulity I should like to tell the Council a story. The Pandit has recently been paying a number of visits to Amritsar in the course of which he has been making those inquiries the valuable results of which he has indicated to the Council in his speech. During the course of one of these visits he paid a visit to the Jallianwala Bagh. After his visits there he reported to the Municipal Committee that there were corpses down the well and that they constituted a grave danger to the health of the locality. On examination it was found that he had mistaken an earthen pot for the head of the corpse and a bundle of cloth that had been looted for the body.

The Hon'ble Pandit Madan Mohan Malaviya, — There was one corpse, several of us saw it."

The Hon'ble Mr J P Thompson — "I adhere to my statement of fact. If the Hon'ble Member believed in his own story, I am sure he would have found one little minute during the 4½ hours he addressed the Council to bring in that picturesque touch. This is an example of the Hon'ble Pandit's credulity. He tells us that he had the evidence of two of his senses, his eyes and his nose, as regards the presence of the corpse. I ask the Council whether we are to take statements which he has only on hearsay and to rate them at any higher value than the evidence of his own senses. I have mentioned this story because, I think it is important for the Council to realise what a terrible enemy we have had to contend against in the rumours spread about the country during the past troublesome months. I think it will help the Council to correlate the intelligence and mentality of the Hon'ble Pandit with that of the lower orders of the people among whom these rumours find credence and have currency. I should like to give the Council some examples of these rumours, because, I believe it is only in this way that it will understand what an unrivalled field the agitator in this country has if he chooses to set about sowing false rumours in the countryside. The rumours in regard to the Rowlatt Act are known to everybody here and need not more than refer to them, such rumours as that no one should be allowed to possess more than 10 bighas of land, that 50 per cent of the produce was to be taken as Government dues, that no marriages were to be allowed until the parties had been examined by a Government medical officer and so on. I do not wish to say anything more about those rumours, nor do I wish to deal with those rumours which dealt with things which are not inherently impossible. For instance, there was a rumour going about which, I believe, found wide credence, that at one period of the disturbances a personal attack was made on Sir Michael O'Dwyer, and his Private Secretary drew out his revolver and shot not his assistant, but the Hon'ble Miran Mohammad Shafi. No, it is another kind of rumour to which I want to draw the attention of the Council, they illustrate better the difficulties of the situation with which we have to deal, rumours which savour of magic or faerie. We had stories that the Germans had signed the peace with an ink which would fade and that there would soon be no evidence that the treaty had been signed at all. We had stories that Mr Gandhi was distributing magic emblems in the shape of miniature swords which would inspire the holders with an undying hatred against the British Government. We had stories that the Amir during the recent hostilities had called to his aid a regiment of paladins from Samarkand, against whom no mere human force could stand. But perhaps the most extraordinary of all rumours which got about was a rumour which gained wide credence in the district of Muzaffargarh. It is a district which lies along the Indus in the extreme south west of the province. It is inhabited mainly by Mohammedans. A rumour got about that on the night of the *Shab-i-barat* all those who had died in the influenza epidemic at the last autumn would rise from their graves. The *Shab-i-barat* is the night on which Mahomedans believe that God records the actions which will be performed by all human beings in the coming year, and the names of all those who are to

die or to be born. Pious Moslems keep awake all night in the hope of catching a glimpse of the glory of the Almighty. The rumour as I said, spread and with it went an order to the women of the district that they should be ready that night in the graveyards with clothes for the dead against their expected resurrection. The rumour was contradicted before the night arrived but I believe that there were many poor women who watched by the graves that night, in the hope that at midnight the graves would open and their lost ones would rise again.

I have nothing more to say my Lord. I do not propose as I told the Council, to deal with the question of the causes of the recent discontents. But there is one statement which I do not feel I can let pass unchallenged. The Hon'ble Mr Chanda and the Hon'ble Pandit Malaviya have both told us that the *Satyagrah* movement was in being in connection with these disturbances. My Lord I should like to tell the Council a story. It came to my notice a few days ago in connection with an appeal for mercy for an unfortunate man who had been condemned to death. There were in Lahore two brothers, Indian Christians. They were both in service and they lived with their families in the same compound. The master of one of them went to Bombay and took his servant with him and he went away leaving his wife and two little children, aged six and three in charge of his brother. While he was away his wife died. His brother sent word to him to return. He was very poor and so borrowed a few rupees for the funeral in the absence of his brother. A few days later his brother returned. When he returned, it was the day of the *Kartik* in Lahore, and the shops were all closed. He found both of his children ill. It was partly illness and partly starvation. Milk was what he wanted for them and milk he could not get. All day long he tried to obtain it, but without success. The shops were shut and none would sell. In the evening he returned in despair. Late at night his brother who had been out on the same errand like him returned with empty hands, and when he opened the door of the hut where the children slept he found there two little bodies lying on the bed with their throats cut. At whose door my Lord will those two lies be laid?"

The Hon'ble Major Malik Sir Umar Hayat Khan:— My Lord, a telegram has just been received, and I believe two or three pleaders sitting together have drafted it in the name of the whole of the Punjab to delay this Bill. Of course, all the other subjects of His Majesty who form about 99 per cent. have also to be kept in view. I had agreed, some of the members had agreed if Government did not bring forward this Bill to remain silent; but now that the Bill is before the Council I wish to say what I originally wanted to.

While welcoming the Bill which is a very ordinary measure and always follows disturbances and martial law I am of opinion that it has come rather late, and now that it has come it should be passed at once. It is a good thing that hitherto no one has sued any of those subordinates who acted under orders

of their superiors and who in turn acted with the best of intentions to speedily quell a fire, the flames of which would have spread to the rural population from which the Army is recruited and that, plus the Frontier troubles at a very critical time of the year, may have proved disastrous, for a while I hope that the loyal soldiers and other officials will not be left a minute more without the protection of this most urgent Bill and that it will be passed into law

“Before the Bill was introduced we had many consultations, and the main objections to the Bill were that it would prejudice the Committee of Inquiry and hamper its work and that the unwarranted acts of various individuals and officers would go unpunished. It looks as if the Government of India had deputed a spy with us because they have framed the Bill in such a way that they have met all the possible objections which one could raise. This could be seen from the Statement of Objects and Reasons where it is clearly pointed out that ‘It gives protection only to acts done in good faith and in a reasonable belief that they were necessary,’ etc. It continues further — ‘It thus leaves open the question of fact in any given case to be considered by the intended Committee of Inquiry, and does nothing to prejudice the Committee’s findings or the action which Government may take upon its report.’

“Now coming to the preamble of the Bill in which it is said:—‘It has been necessary for the purpose of restoring order to resort to martial law’ I would like to offer certain observations to show the state of various places in the province where martial law was necessary

“Apart from the section which was responsible for the disturbances, the general population deplored it and positively knew that this was all due to an organised conspiracy, and it will not be out of place to quote a portion of the address presented by the Muhammadan community of the Punjab on the eve of Sir Michael’s departure. This community forms the majority of the population. On that occasion representatives of nearly all the districts of the Punjab were present. It runs as follows —

‘Although towards the conclusion of your Honour’s brilliant regime the enemies of law and order as a result of an organised conspiracy which may be the outcome of a foreign influence succeeded in deluding a section of the people into riots and disturbances, yet it is a standing tribute to your Honour’s far sighted statesmanship and firmness that the situation was soon got well in hand and by using the speedy and effective method of martial law peaceful life is once more possible for the law abiding citizens of our chief towns’

“Later on, when all the spiritual leaders met to condemn the action of the Amir of Afghanistan in declaring war against India, and thus naturally against His Majesty’s Muhammadan subjects, and to say farewell to Sir Michael, they said —

‘We condemn the actions of those enemies of the country whose conspiracy has brought about disturbances in the country’

So from this it will be seen that the general public apart from evil doers recognised that there was a conspiracy at the bottom of all these affairs.

The Hon'ble the Home Member held an inquiry into the doings of the *Gadhr* Party i.e. those who wanted to bring about mutiny in the beginning of the war and what were their methods? They intended to cut the telegraph wires, break the railway lines, derail the trains and plunder the public, etc. What did the recent conspirators do? They took exactly the same line and the whole thing was very cleverly managed. Meetings were convened in the mosques to unite Muhammadans. It was known that the Muhammadans had strained feelings about the Turkish affairs, and if their mosques were bombed or fired upon, it would infuriate them. Such meetings were held in Delhi, Lahore and various other places. The same thing was planned in Amritsar with regard to the Sikhs, in which they succeeded to a good extent and spread all sorts of rumours about the Darbar Sahib, the Golden Temple. But it was owing to the loyalty and far sightedness of the Sikh nation, that their designs were frustrated. The similarity of action which I explained the other day in various centres at one and the same time illustrates that the origin was the same. The time of a great fair chosen to spread the propaganda with much ease was cleverly fixed where people from all the rural parts of the country assemble so that they may carry it with them to the villages. The column of the extremist newspapers were engaged for propaganda, and though we may now satify ourselves that the editors of some such papers were punished, they had done their work.

On the 5th of April last everything was so ripe that all sane thinkers knew the trouble had arrived. Though this was also known to the authorities and though some arrangements of police and troops were made as a safeguard, I am sorry to say that authorities were yet doing things in a half hearted manner. Knowing that there would be trouble I offered my services with my men and sowars to help the Police which were accepted, and from that time onward I continued to work throughout the disturbances helping the Police, the Publicity Board and the Military authorities.

From this it will be clear that everyone knew perfectly well the impending danger. Although the Lahore authorities prohibited the forming of any procession next day the 6th of April all such orders were disregarded and though the facts were reported and later on they saw it for themselves, they were weak in not enforcing their orders. This weakness so encouraged the mob that from that date onward no man with a title or one considered to be of the Government party could appear among the public. The war cries of *Hindus-Muslims* *Khaj* *mon* etc. at both the communities had joined in a common cause by eating and drinking together. The excitement of the public went on increasing while the prestige of Government went on decreasing. When on the 10th things reached their climax, at this time the Punjab Government was hesitating and minimising the gravity of the situation.

"As the martial classes of the Punjab were about to give a farewell party to the Lieutenant Governor, and as most of the leading men including the members of the Provincial Council were present, a deputation waited upon a high official to impress the delicacy of the situation just before disturbances had broken out. When the disturbances had broken out on the 10th, the Punjab Government summoned all the representatives of Lahore, as well as those of the other parts^m of the Province, to discuss the situation, and out of thirty or forty members representing all sections and classes, except two, were all unanimous in advising the Government to be firm and take strong and immediate action so that the disturbances would not spread to the rural areas. But I am sorry to say that the Punjab Government did not follow the advice and still hesitated to take any proper action. This was interpreted by the people as inability of the Government to do anything, and disturbances at various places like Gujranwala, Kasur, etc., were the result. Had martial law been introduced earlier it would have saved many lives and disastrous results. I have dealt with this at some length to show the state of affairs. Most of the students who were approached by some of their teachers were wearing the black badges of martyrs and did not attend the schools and colleges. The Railway employees had also been approached and had struck work. Apart from the various strikes, a *Danda* Battalion with heavy clubs was in charge of Lahore city, who terrorized all the peace loving people who wanted to assume normal conditions. Free food was supplied to all these and other evildoers, while the rest of the population could not get sufficient to eat, many having reached the point of starvation. The Council will have heard the sad story which Mr. Thompson has just related of those children who could not get food.

"A regular agency of exaggerated rumours against the Government was opened. The emissaries reached Peshawar and then further on to Kabul. This will prove, I hope, the necessity of the preamble of this Bill.

"It will be admitted on all hands that acts committed by the soldiers under orders of their superior are *bona fide*. But if it may be considered that the higher officials are to be blamed for harshness I have already stated the case of some at Lahore for so delaying action.

"In Gujranwala, the rebels the whole day burnt building after building belonging to the Government as well as the records, church and station, and the authorities took no action till evening, when some aeroplanes turned up. If the night had fallen before their arrival none can foretell what would have happened during that time.

"The excuse that the local authorities have put forward at Gujranwala that they did not fire and allowed everything to be set on fire all the day long was that young children were put forward as a shield, and had they fired upon the mob the children would have been killed. But this was no novelty, as the same

thing was tried at Malakwal and even at Amritsar which fact you would have heard and seen when a photo was shown in a debate the other day. The law clearly provides in section 106 I. P. C. for it.

Thus the authorities cannot hold it as a good excuse. It is said one of the bombs was thrown intentionally on a Boarding House at Gujranwala and the officer in the machine is accused for it. It will not be out of place if I say this from my experience that bombing by aeroplanes is not always very accurate and generally does not hit the target one wants to. At an Arab village we had a camp scattered in about a mile square. A famous Turk came to bomb us in an up-to-date German machine. In all his attempts he missed the whole camp and hit a mule at a good distance away from the camp.

In many other places all the Government stacks of fodder were being burnt and all the grass preserves were used as common property. Even His Majesty's effigies were made and burnt.

It was not only in Gujranwala that this was done but I know of certain cases in Lahore where students and a few others did this. The evidence was not sufficient to prosecute, but it is a fact that this was done. All attempts were made to approach soldiers to detract them from their allegiance but thanks to God, owing to their staunch devotion and loyalty as well as their knowledge of the strength of the British Arms, all attempts were frustrated on which mostly the conspirators depended and all their calculations went wrong as those of the Kaiser William and law and order was restored. All of those who were trying to quell disturbances and at the same time had to meet the Frontier troubles, faced a critical situation, and no one for a moment could predict that all this dark cloud and storm would pass away in such a short time. So provision had to be made for all eventualities.

If all this does not show that it was a conspiracy of waging war against the Crown and the necessity of martial law no one can understand what more was needed.

My Lord, when all are accusing the Punjab Government for hasty steps, we who know the facts complain of their over-cautionness which has been mostly the cause of some of the mufassil disturbances and maintaining martial law for such a long time. Had martial law been introduced three days earlier it would not have been necessary to continue it for more than a week or two, and there would have been no necessity of constituting courts under the law nor would so many people have gone to jails.

My Lord, I have patiently heard my friend the Hon'ble Pandit Sahib, and I not only praise his endurance but congratulate him on his masterly speech in defence of those accused in the recent disturbances. It is simply natural, that in so doing he should advocate their cause and theirs only. But this is only one side of the shield. The accused that he has

pledged for are a fraction of a class which in itself is a fraction of the population of our province. The dumb masses of the rural population were never counted in asset in politics but now they have become such as to be reckoned. The acts of some of these criminals brought restrictions on the free movements of this overwhelming peace loving population and the inconvenience that they had to undergo for the acts of the above-mentioned few made them come out of their general silence. Their feelings could be only known to those who live among them and know their language. In the village *Dera* as well as in towns, abuses were levelled on the class which brought about the troubles in the Province, through which they were suffering so much. But as they do not possess an organ their prepondering voice is lost.

'Though a veil has been made out minimising the gravity of the situation and certain challenges have been thrown out, I accept some. It has been said in the debate by my Hon'ble friend who sits on my left that the Government Communique said everything was quiet at Lahore.

'The feelings in Lahore, though were at the highest which could be ascertained from many acts, had to be minimised when a Communique for the general public in the Punjab was prepared. Any intimation of gravity to the public would have brought about disastrous results in the rural masses.

"There was a question of joint press telegram not coinciding with the Government Communique. The reason was that one of the criminals was responsible for so wrongly reporting who has been brought to book and is now in jail.

"I would now like to state some questions of fact not in a form of speech but taking them one by one.

(1) It is said that of the cases where the Indemnity Act came into operation in England there were sixty thousand people who demonstrated against the Law. I can safely say that the mob in Lahore was well over a lakh and perhaps even two.

(2) It has been discussed that one of the acts to justify martial law was in the case where jail-birds were set free. This was being attempted in Gujranwala that evening, if the aeroplanes would not have arrived.

(3) There is no denial about the fact that when the *Gadhr* Party started its operations there were widespread disturbances in the rural places like Jhang and Muzaffargarh, etc., and if not nipped in the bud by the Punjab Government, things might have resumed exactly the previous course even this time.

"Jhang and Muzaffargarh disturbances were in rural parts and it was possible that such could occur in that connection all over the country.

On the 6th, many of the students in defiance of law went to the River Ravi and formed a procession which was strictly prohibited by the Government authorities. When I first met them, as I had volunteered to do there was no policeman in uniform so as to stop them. Their demeanour in forcing the shops to be closed and keep away people from their business was such that it was essential that they should be forbidden to take part in politics, and I hope the authorities responsible will be called on for not exercising better control.

During this time when there was a grave danger that the rural population might be affected I was deputed to go to my district for two days. I found that a campaign of false statements was being carried out in trains as well as in the mofassil. Some of these were that Lahore and Amritsar were lost to the Government, and that they were rapidly losing other places, the army was out of hand and the Europeans were being killed wholesale. The rumour was that all the communications were being cut and parties had started for doing so in each district. In my district I had to raise within a day three hundred horsemen to look after a long Railway line and the authorities had to raise some more men to guard various other portions of the Railway line.

A reserve had to be kept in hand at the Headquarters to rapidly move to any site of disturbances. It was owing to these precautions that nothing happened there and the same sort of measures had to be taken in nearly all the districts.

It has been said that *Jai* of King Emperor was also repeated by the mob. I am sorry to say that it was not the word *Jai* but it was *Hai Hai*.

From Delhi came letters and men to press on the shopkeepers to suspend business. Some of those who used to buy cloth from the big firms and were given latitude to pay money after it was sold the demand came that if they would not suspend business they would be required to pay money immediately. If this was done their bankruptcy was sure and certain. Thus they were forced into the arena.

Some poor men who were in debt to these people had also to join them.

Then it is said that nothing serious happened in Lahore. The reason is that later on ample arrangements were made; the army was on the spot and the evil-doers were absolutely helpless to be able to do anything. As long as they were not checked some heads were being split in the language of my Hon'ble friend on my left.

"The Western Punjab next to the Frontier was so frightened by the disturbances in the east and declaration of war in the west that they all collected to form organizations to save themselves,

"I only put forward these few remarks at the end to throw some light on the real state of things, and with these remarks I support the Bill."

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The Hon'ble Mr W E Crum :—"My Lord I rise with no wish to prolong this discussion, but rather in the hope that what I have to say may possibly persuade members that there is very little use prolonging it and talking in the strain we have heard so far. The Hon'ble the Home Member in the speech with which he opened the discussion made the point very clear indeed, that we were here not to discuss the question as to whether martial law should or should not have been ordered, but that we were here to discuss the question as to whether those officers who have been acting under martial law and who have committed possible offences against civil law, as to whether Government who has promised those officers protection should protect them or not. Now, my Lord, the Hon'ble Mr Chanda and the Hon'ble Pandit have spoken for a very long time in this Council, and for some time I was at pains to discover what the object of their speeches was. I do not think that they could possibly pretend that their intention was to persuade this Council that we were here for a discussion as to whether martial law was justified or not, and it seems to me that the only object and certainly the only effect that their speeches could have would be to persuade people outside this Council that Government had done wrong in ordering martial law, and therefore prejudicing not only the people, but also the Committee of Inquiry which is about to sit. Well, my Lord, they have had their answer. I doubt whether this Council has ever listened to a more convincing or a more crushing reply than that of the Hon'ble Mr Thompson. The original speeches of the two Hon'ble Members and the reply will go out to India, and the original speeches and the reply will be weighed in the balance, and I should not at all be surprised if the Hon'ble Pandit was not sorry that he had ever touched upon the subject as to whether martial law should have been ordered or should not have been ordered."

"Now my Lord, there was one point which I must say puzzled me for a considerable time in the speeches of the Hon'ble Mr Chanda and the Hon'ble Pandit, and that was the question as to what would happen to these officers of Government who had obeyed the orders of the Government and had thereby possibly exceeded civil law, if it was eventually decided that Government were wrong in ordering martial law, and therefore, if as I understood the Hon'ble Pandit to suggest, indemnification could not be allowed. As far as I could make out the Hon'ble Mr Chanda made no reference to this subject. The Hon'ble Pandit said that these officers must take their chance."

"Now, my Lord, I can conceive of no more dishonest, no more ridiculous, no more pitious attitude for any one to take up than to suggest that, when Government had told its officers that they would be protected, they should not be protected and to my mind it is upon his point, and this point alone, that the discussion to day should continue. Government

have said that they will protect their officers. Are Government going to protect them or not? I wonder if the Hon'ble Member realises I wonder if other members of this Council realise what would happen to India, to any country if when Government has given a promise it goes back upon that promise. The result would be nothing but chaos; from the highest officer in Government service down to the latest joined sepoy and the lowest village chowkidar every one would be afraid to do his duty; and my Lord, I do press this upon non official members of this Council, that the point before them is that we are not here to discuss whether Government were right in ordering martial law or not that we are not here to discuss whether this man was rightly put in prison or was not rightly put in prison but that we are here only to discuss one point, namely that Government have given a promise—are they to fulfil that promise or are they not?"

The Hon'ble Rai Sita Nath Ray Bahadur:— My Lord in rising to support the amendment proposed by my friend the Hon'ble Mr. Chanda, I have no desire to minimise the gravity of the situation caused by the recent events in the Punjab. But now that your Excellency's Government have been pleased to appoint a Commission to inquire into the matter I fail to understand what harm will come if the introduction of the Bill is postponed till the Commission have submitted their report.

I fully realise the paramount duty of Government to protect their servants who have acted under orders and acted *bona fide* and in good faith in the discharge of their duties. And had not the special circumstances in the Punjab and the popular demand induced Your Excellency's Government to appoint a Commission of Inquiry I am sure my friend would not have been justified in pressing the amendment. But as matters stand I think there will be no harm in acceding to his request. True, in the meantime suits may be instituted against Government officers. But suits of a contentious nature in which written statements have to be filed and witnesses examined cannot be disposed of before four or five months, *i.e.* before the Council meets at Delhi. Even if urgency is felt the Government of India which will move to Delhi in about a month's time can call an emergency meeting of the Council at Delhi and have the Bill passed into law. As the Bill is to have retrospective effect, the interests of the officers of Government will in no way be prejudiced by deferring the passing of the Bill till the Commission of Inquiry have submitted their report.

I beg to reiterate that it is the paramount duty of Government to protect its officers who in an emergency are called upon to act and who act under orders and in the discharge of their duties, and I have no mind to say that Government should not protect its servants nor any mind to minimise the gravity of the situation created in the Punjab.

[At this the Council adjourned for Lunch].

The Hon'ble Mr W. M. Hailey —“My Lord, if I rise to address the Council it is not with any desire to add to the number of the Punjab champions. It is perfectly true that I have spent more than half of my official career in that province. I have every affection for it, I owe every obligation to it, but I have been away from it long enough, not to believe that the Punjab is always above criticism, just, my Lord, as I also possess a very strong disinclination to join that band of thinkers who seem to consider that everything that is done in the Punjab is wrong, and that the Punjab service must be inevitably and invariably condemned, without benefit of clergy.

“My Lord, I rise simply because I have had the opportunity of studying closely many of the facts in connection with these disturbances, and although I think the Council is very well able to judge of the value of the arguments adduced by the Hon'ble Pandit in defence of his case, yet there remain a number of facts, of which the Council should, I think, be put in a position to learn the truth. I hold they have not all been represented by the Hon'ble Pandit in their actual light, and that is my reason for rising to address the Council now. The first thing, my Lord, on which the Hon'ble Pandit dwelt at some length, and I take it that this was the salient point of his case, that martial law was unnecessary. If it was introduced without justification then, he argues that the whole case for this Bill falls to the ground. I take it and I think I have interpreted him rightly, that he holds that constitutional practice will alone justify the introduction of a Bill of this nature if martial law was in itself justifiable and introduced in a good cause. Now, he first of all drew a picture of what the state of things was before the 30th March. He said that nowhere at that time was there any inclination or any intention of rebellion. In fact, if I may say so, the only sinister aspect in the picture was a Government which persisted in passing the Black Act, and that there was somewhere in the dusty background of the north a reactionary Lieutenant-Governor who was determined to pounce upon and punish agitation. I think, my Lord, we must admit that those who originated the agitation which we hold led to these disturbances, those who originated that agitation, had no intention of producing rebellion. When in this Council we were threatened with an agitation which would disturb the good relations between the Government and the people, and when that threatened agitation was followed up in the Press and on platforms throughout the country, then I think those who promoted it had no idea of producing an open rebellion against the Crown. But I maintain they produced an atmosphere which was in itself dangerous and liable to bring about a rebellion. If they did so, it was not without warning from their own friends. As early as January last the *Bengalee* newspaper, and I quote the *Bengalee* because the Hon'ble Pandit also referred to it with approval warned them that they were playing with fire. Later on, and I am glad to quote another of their friends Mrs Besant—even if she no longer ranks as such—warned them that an agitation of passive resistance would only lead to riot and bloodshed in Bengal, which knows something of the meaning of prolonged agitation, refused

to have anything to do with the particular form of agitation which they originated and supported. I maintain, therefore, that those who promoted the agitation were fully warned of what was likely to happen, and I maintain that Government, if it had expected that trouble was likely to arise from that atmosphere, was justified in that expectation. However, the *Lafal* came off in certain places of the Punjab on the 30th March, and I freely admit that up to that time there was no disorder. Now let me go to the second stage, that which ended on or about the 6th of April. There again there were nowhere signs of open disorder. It is true that at Amritsar there were inflammatory posters put up, one of which called on the people to die and kill, but the attitude of the crowd was not such as to lead anybody to suppose at that time that any disorder was contemplated. Now I go a step further and I take the event that followed on the 6th April, the universal *Lafal* of the 6th April. The Hon'ble Pandit has taken up some details into these events, and I must follow his narrative in detail. He first talks of Amritsar and he says that Amritsar was all peaceful until the 10th April, and that subsequently if any trouble arose it was due to the action of Government in first of all forbidding Dr. Kitchlew and Dr. Satya Pal to speak in public and, in the second place, in deporting them. I realise the action of Government in deporting Dr. Kitchlew and Dr. Satya Pal needs justification. The justification is this. When subsequently a Martial Law Committee sat to decide the case of these gentlemen it found that they had from the 30th March indulged in language which was not only likely but which was intended to bring the Government of the country into contempt. It found that on the 8th April following the *Lafal* they had held private meetings the sole object of which was to keep up the excitement. But what was the population in which the excitement was to be kept up, the population of the Central Punjab?

I yield to no man in my admiration of the sterling virtue and martial qualities of the men of the Central Punjab. We owe much to those qualities in many a hard contest, but they have some of the defects of their virtues. When the Rowlatt Commission was writing of men of this class, it said that in their case the interval between thought and action was very short and if once they gave way to the appeal of inflammatory addresses, they were likely to take speedy action such as would be subversive both of law and the future of the constitution. And these were the men among whom the excitement was to be kept alive. There were moreover local causes at work at Amritsar. That is to say there had some time before been very keenly contested municipal elections, and the candidates and the enemies had engaged bands of hooligans, who, we know, were subsequently largely instrumental in perpetrating the atrocities on the 10th of April. There were besides a very large number of Kashmiri Muhammadans to whom vigorous appeals had been made to show sympathy for the cause of Turkey and these appeals had not been without effect in inflaming their feelings. Now a Government faced with a situation like that has to take its precautions. It would be blameworthy if it did not take such precautions and I maintain

that anybody with a knowledge of administration, with an interest in the maintenance of law and order, could come to no other conclusion than that the men who were mainly instrumental in keeping alive that excitement should be removed from the scene of their activities. That decision was announced to the Deputy Commissioner on the evening of the 9th April. On the 10th morning, he took certain precautions. I do not desire to take up the time of the Council with too much detail but I am obliged to follow the narrative of the Hon'ble Pandit in this respect. He was afraid of a demonstration by an excitable and inflammable people, a demonstration mainly directed towards the release of Dr Satyapal and Dr Kitchlew, and he therefore put out pickets to prevent the crowd from crossing into the civil lines. When the news of the deportation was known in the city, his anticipations were justified, a crowd collected and attempted to go to the civil lines, and it was at this point that the first conflict occurred. This is what happened. I think anybody would assume from the Hon'ble Pandit's narrative that this was more or less a peaceable crowd,—I admit that it was unarmed—that it was a peaceable crowd and could have been dealt with by peaceable methods. The words at all events, I think, that he used were that all it required was a gentle pushing back. Now my Lord I daresay there are some here who have had some experience of crowds. If they have, they will bear me out when I say that, if you have a picket of a few mounted men it is exceedingly difficult to indulge in moral suasion of that kind. At all events what happened was that so far from the crowd being gently pushed back, they violently pushed the picket back. It was reinforced by a small body of infantry. When it was further pressed back, it was then, and then only, that the order was given by a First class Magistrate to fire. Now that was the beginning of all the trouble, and the Hon'ble Pandit, I think, will have us believe that if that picket had not fired, none of the subsequent troubles of the Punjab would have ensued. I maintain that the subsequent events afford perfectly good evidence that something would have happened, if that picket quietly let the crowd go past. What did happen in Amritsar is unfortunately too well known to everybody. And with every desire to avoid embittering feelings by reciting the events, I must refer to some portion of them. It was not only that Banks were burned, that Churches were burned, that a number of Europeans were murdered, it was not only that. The fact was that the whole thing was done with the utmost ferocity, that Europeans were not only murdered but that indignities were heaped upon them. I do not say this with any desire to embitter feelings, I only say it as showing the temper that the crowd was in, I only say it as showing that even if that picket had not fired there trouble would have arisen elsewhere. And it seems to me that it is unreasonable to say to this Council, that you must look on the previous provocation given to this crowd, as affording—I do not think the word 'justification' was used, I do not think the word 'palliation' was used—but I think it was said that you must look on the action of the picket's firing as some sort of explanation of the subsequent action of the crowd. Disorder did not stop there, and this is a dangerous feature to which I wish to call attention, it did not stop at murder and arson, it did not

stop at showing the utmost cruelty to a woman and searching out another woman with every intention of murdering her. It did not stop there. The crowd went on afterwards seeking to destroy communications. It burned Hightanwala station; it attacked and looted Cheharta Railway Station. I find it curious that the Hon'ble Pandit omitted to call any attention to this dangerous tendency of the crowd. The Hon'ble Pandit left Amritsar for a time and went to speak of Lahore. Now at Lahore he equally said that the atmosphere between the 6th and the 10th was quiet and peaceful, and the only reason that trouble arose in Lahore was that the Government excluded Mr. Gandhi from the Punjab First, as to the exclusion of Mr. Gandhi from the Punjab. I think that also requires explanation, and if possible, justification. I have described something of the atmosphere that there was in the Punjab at the time and the Hon'ble Mr. Thompson has referred to the extraordinary rumours which were set on foot regarding the operations of this Act. These were rumours which did not appeal primarily to educated people: the bulk of the rumours were such as appealed with exceptional force to the land-owning classes. He has told us, and there is every evidence to support what he said, that people were circulating rumours that the land-owning class was to lose its status; that men who had previously been proprietors were to become tenants; that land revenue was to be raised; that produce was to be taken instead of cash; and these are exactly the type of rumours which are likely to produce among a vigorous population and cultivators trouble, the end of which no man can foresee. The population at large then had been told that the Act involved such consequences, and they had learnt that there was only one man in India that could help them in the situation. I do not think Mr. Gandhi was known personally in the Punjab, but he had acquired there the reputation as somebody said (I think it is mentioned in one of the judgments), the reputation of a *rishi* and a *wali*. I certainly have read one speech in which the coming of Mr. Gandhi was compared to the coming of Christ to the coming of Muhammad and to the coming of Krishna. Now that was the man who, if I should use the words of a speaker at Amritsar, was to break the power of the bureaucracy that was the man around whom the whole of the agitation centred; that was the man who by his new device of passive resistance was to relieve the people of the burden with which they were threatened. They understood nothing of the real meaning of passive resistance. So little did they understand the meaning of this peaceful movement of Mr. Gandhi's that, as Mrs. Bennett afterwards said, people who committed arson and assaulted women did so with the name of Mr. Gandhi upon their lips. We have been told—I have seen it stated in the newspapers—that Mr. Gandhi's action in coming to the Punjab was a peaceful one, that had he gone there he would have stilled all angry passions, and restored tranquillity. My Lord I think I am right in saying that Mr. Gandhi could not even address Punjab crowd in a language which would be understood by them. How then was he to still those angry passions? What possible effect would Mr. Gandhi's arrival in the Punjab have had except

to make people believe that there was truth in these sinister rumours, to make people believe that he had come there to continue the fight against Government? With a population such as that which I have described, a belief of that sort would have been bound to lead to fresh disaster. I maintain that no one with any feeling for the security of the Province could have safely allowed Mr Gandhi to have arrived in the Punjab at that juncture.

“ I have been obliged to interrupt the course of my narrative, and I will now continue it. The attitude of Lahore, the Honble Pandit said, was open to no exception. There had been no trouble, there had been no disorder, everything was peaceful. Well, my Lord, a gentleman who was subsequently prosecuted, an editor of one of the newspapers, himself admitted that at this juncture the atmosphere was highly surcharged, and that the people at large were in a state of very unusual excitement. The Commission which subsequently sat to judge the facts, in what is known as ‘ the Lahore Leaders case,’ were of opinion that the fraternisation at the Ram Naum on the 9th was used for a seditious purpose. We know that Honorary Magistrates and members of the Municipal Committee, who were believed to have taken the part of Government and attempted to dissuade the people from closing their shops, were threatened, we know that many of them were practically confined to their houses. Then, again, we also know that the feeling of the people was being worked up by a variety of literature in the shape of posters. Let me proceed now to the actual incidents of the 10th. It has been very widely stated that all that the crowd intended to do, when it went up to the Upper Mall on the 10th, was to make a peaceful demonstration in front of Government House. It has been insinuated in various quarters that it was a small crowd of students. The best authority we have so far on the nature of the crowd and on the nature of what it did, is the judgment of the Commission. These Commissions may be attacked as having no legal authority, their sentences may be attacked as being too severe, but is this Council going to believe that these judicial officers would perjure themselves by misstating the facts on which they have founded their judgment? That is an impossible supposition. They state the case as follows, and I must quote at some length —

‘ Towards evening a large and excited mob collected in Lahore City. Leaflets were distributed to it and some of its members were heard shouting both in English and in vernacular that Amritsar had been taken and the situation was well in hand in Lahore, as three gates were already held and a fourth would soon be closed. Headed by a man carrying a black flag, the mob proceeded with shouts of *Gandhi ki Jai*, and *Shaukat Ali ki Jai* from the Lohari Gate through Anarkali to the Upper Mall. Some of its members entered the compound of the Government Telegraph Office, but turned back on seeing a detachment of the Royal Sussex which were guarding the building with fixed bayonets. By the time the mob had got as far as the Lawrence Statue, it numbered some thousands. There it was

intercepted by two Indian Police officers, with a handful of armed constables who were brought up at the double from Anarkali Police Station through the High Court grounds. These police lined the road in front of the mob but they were pressed back for a distance of about 300 yards as far as the Soldiers Club. It was then getting dusk.

At this juncture Mr Fyson, the District Magistrate, Mr Cocks, Deputy Inspector-General, Criminal Investigation Department, and Mr Clarke, Deputy Superintendent of Police arrived on the spot. Mr Fyson ordered the mob to retire but they pressed round him. One of them seized him by the shoulder from behind and they began to go through the thin line of police. They also attempted to get round them by going through the compound of the Soldiers' Club. After some minutes Mr Fyson, who, owing to the uproar had difficulty in making himself heard, ordered the police to withdraw a little further up the Mall in order to prevent them being overwhelmed by the mob, and then as there was no other means of stopping its progress, gave the order to fire. About a dozen rounds were fired and then the mob was pressed slowly back to the city. Near the Bank of Bengal Mr Clarke was thrown down, but his assailant escaped.

And now comes what I consider the salient point of this judgment :—

It is beyond doubt that the Lahore mob which marched on the Civil Station of Lahore was actuated by the same motives as that of Amritsar. It was essentially part of the same insurrection, and it was fully aware of what had happened to the neighbouring town the same day. It was rapidly becoming more threatening and had already displayed its contempt of the authority and person of the District Magistrate. A collision was inevitable, and had the mob proceeded a little further up the Mall, it would have found a supply of deadly weapons ready to hand. Had it not been checked where it was, there was the gravest danger that it would have hurried on, in the confusion and darkness, to the commission of awful crimes.

That is the opinion of the Commission which had heard both sides of the case, and it is their deliberate opinion that, had the mob not been checked then, it would have committed grave disorders similar to those which occurred at Amritsar. There was a subsequent incident on the same day which the Hon'ble Pandit minimised in the same way as he minimised this. I find myself under the necessity of referring to this also at some length. I might say that the military had by this time arrived and were ready to assist the police.

When the mob was driven back from the Mall it did not dissolve, but was slowly pushed back by a small force of police into the Nila Gumbaz Chawk and up the Anarkali towards the

Lohari Gate There it was reinforced by a crowd issuing from the city, and the police under Mr Clarke, Deputy Superintendent of police, were held up at a point a little short of the cross roads where the Circular Road cuts across the Anarkali Mr. Broadway, Superintendent of Police, came up with a small body of police and cavalry but even so the forces of order were unable to disperse the mob which showered brickbats upon the police and towards Two or three rounds of buckshot fired at the roofs of some houses from which the shower of missiles was most persistent failed to do more than check the attack from that quarter. A message brought Mr. Tyson, Deputy Commissioner, to the spot: he went forward into the crowd to reason with Pandit Rambhuj Dutt or Lal Duni Chand (he does not remember which) who were there, but all efforts to disperse the mob failed, and at last some half a dozen rounds of buckshot were fired The mob was then dispersed without further firing

‘We commend to the notice of Government the admirable conduct of all concerned in dealing with the mob’

“Now, those who listened yesterday to the description of this particular incident from the lips of the Hon’ble Mr Chanda are at liberty to compare the two narratives, and are at liberty to attach their own weight to the statements made by him. He dwelt on this incident at some length, based his description merely on certain statements in the newspapers He did not refer to the judgment of the Commission, although he had then, I assume, in his possession a copy of it, because later on he alluded to it Now those were the incidents of the 10th. By 8 o’clock, as the Hon’ble Pandit says, the troops were in the city, and everything was quiet on that night and during the 11th So peaceful was the city, says the Hon’ble Pandit, ‘that a meeting was held at the Badshahi mosque’—I have his words here—‘to express indignation at what had happened’ He merely mentions an incident on the 12th to which the Hon’ble Mr Thompson also referred, namely that a C I D Inspector, Ali Gauhar, was assaulted Now what really happened was this I take it from the reports of the various judgments of the Commission On the 11th all shops were closed and an enormous crowd of Hindus and Muhammadans, said to number 25 thousand people, collected at the Badshahi mosque, inside which a banner was hung with the inscription ‘The King who practises tyranny cuts his own roots underneath’ This is the meeting which the Hon’ble Pandit says passed over quietly Well, let us see the facts After the speech of Lala Rambhuj Dutt Chowdhry, an incident occurred which will show exactly what kind of meeting it was This incident is described in the judgment of the Commission, dated the 29th April 1919 An ex sepoy, named Balwant Singh, was brought in. He shouted a false story that Indian Regiments had mutinied in Lahore Cantonment and were marching on Amritsar and Lahore

He also stated that they had killed about 200—250 British soldiers and that he himself had killed six. He claimed to be a soldier and was dressed as one. He was garlanded and carried in triumph to the pulpit—he a Sikh was carried in triumph to the pulpit—of the mosque, and there he was called upon to make a speech. This he was unable to do and he shortly afterwards disappeared. Then, states the Commission as a result of an orgy of oratory the rabble left the mosque, led by hooligans who carried sticks and shouted seditious cries and destroyed pictures of His Majesty. The allusion to the band of hooligans requires some explanation. It was an organised body described as follows by the Commission —

1 They marched two deep carrying their sticks as if they were rifles at the slope or trail. At constant halt they knelt, by numbers, as if in a firing position. On numerous occasions Chanan Din made inflammatory speeches proclaiming that he and his band were rebels and looked not to His Majesty the King but to Germany, Turkey and Khabol as their suzerains. He invoked the assistance of God and of these powers to overthrow the British Government. He also made reference to the Rowlatt Bill. Chanan Din's speeches were applauded by the mob, and the *Fauj* as it passed along was joined by recruits who were supplied with sticks.

Now what were the feelings which actuated the people who got up this affair is very well shown by a poster which I will not say was issued on this date but which certainly was issued either on this date or a day or two afterwards. I will read some extracts from it:—

When Mahatma Gandhi arrived at Palwal the English monkey informed him that his entry into the Punjab was forbidden, and that he should please go back. He replied that he would never go back; then that big monkey arrested him. Reports of his arrest reached here at once.

The first part is merely abuse—that matters little; but the second part is noteworthy.

When the news reached Amritsar the *Danda Fauj*¹ of the brave Sikhs set fire to the Bank, the Railway Station and Electric Power House. They cut the telegraph wires and removed the railway line. The *Danda Fauj* of Amritsar bravely killed a number of European monkeys and their Sikh regiments have revolted and deserted. Oh Hindu, Muhammadan and Sikh brethren, enlist at once in the *Danda Army* and fight with bravery against the English monkeys. God will grant you victory. Do not apprehend that God does not help us. Cast away such a notion out of your heart. God helps us at all times and hours.² Conquer the English monkeys with bravery. God will grant

victory. Leave off dealings with the Englishmen, close offices and workshops fight on This is the command of Mahatma Gandhi'

"And there is a good deal more, very much to the same purport —

'Oh Hindu, Muhammadan and Sikh brethren, do you know of the incident that took place at the Mall Road on the night of the 10th April? The Hindus and Muhammadans who were martyred that day were your own and they sacrificed their lives Does not this incident excite you? What is the reason? Were not those who were made martyrs in Hira Mandi on the 12th April your own brethren, and died at the hands of the tyrants? Does the Prophet of God command you not to fight against the tyrant? No, never, the Prophet himself fought, and has commanded us too to destroy the tyrants as he did Should we not be ashamed ourselves that while the tyrant is up to all sorts of cruelty, we are sitting quiet? Oh Hindu, Muhammadan and Sikh brethren, raise the cry of Allah Akber and kill the Kaffirs Get ready soon for the War and God will grant victory to India very soon Fight with enthusiasm and enlist yourselves in the *Danda Army*'

"That was the spirit which actuated this quiet and peaceable city on the 11th and 12th But even if on the 11th and 12th there was nothing beyond what I have described in Lahore city itself, what about the state of Lahore district? On the 12th a violent outbreak occurred at the neighbouring town of Kasur, the headquarters of a sub division in the Lahore district The Kasur outbreak will be particularly interesting to Council because it had to be quelled entirely by Indian officers What happened there? The crowd excited, inflamed went to the railway station. It attacked a train in which there were a number of Europeans. It attacked, but fortunately did not injure owing to the bravery of an Indian gentleman, a European woman and her three children, but it killed two British warrant officers and injured two commissioned officers. In that case at least I claim that no one can say that there was either justification or 'explanation' for the violence of the mob, none of that crowd had been fired on by the police or military, the only firing was the discharge of the revolvers by the two unfortunate warrant officers when they were in danger of their lives After murdering the two Europeans, the mob continued its course through the small town and burnt all the Government property that came within their reach That is an incident which, I think, will disprove entirely any suggestion that the action of the crowds in the Punjab, where they broke out into violent excesses, was due to any sort of provocation or had any sort of justification

"I have carried the narrative up to the 12th The date is important because it was on the 13th that a reference was made to the Government of India on the subject of the declaration of martial law I ask the Council to note the state

of things in the Punjab as a whole on the 13th, when that question came up for consideration. You cannot take these incidents as isolated; you cannot say

After all the military had got possession of Amritsar; there were large forces in Lahore no further trouble was to be anticipated. You cannot say that. You have got to look at what was happening not only in those two cities, not only at what had happened in Lasar but at what was happening all round. It is very easy to sit in this Council Chamber my Lord in that atmosphere of protection of life and property which is the outcome of our rule; it is very easy to sit here and threaten us with agitation; it is equally easy again to sit here after the atmosphere of law and order has been restored and to minimise the magnitude of the events which took place in the Punjab. Some members of this Council may have fallen into the first mistake; I hope that none will fall into the second. Let me state, as briefly as I can, the nature of the problem as it presented itself to the Government of India when they decided to introduce martial law. There had been outrages at Amritsar outrages which showed a strong and very bitter racial feeling. At Lahore the crowd had at the Badshahi Mosque, openly welcomed the false news that the Sikhs had mutilated in Amritsar had destroyed portraits of the King had supported the formation of an organized force of hooligans, had attempted to force the closure of the railway workshops. At Karur they had murdered Europeans and destroyed all the Government property within reach. But it goes further than that. Everywhere attacks had been made on the communications. Bhagtanwala station had been burnt, Chebarta station looted, Khem Karan and Patti stations had also been attacked, the communications had been so far impaired that, as your Excellency reminded us, it was impossible to communicate with Lahore from Simla except by means of wireless. There was every proof then that disorder was spreading outside the cities. In cities it is a comparatively simple problem to deal with disorder; you can send troops and isolate them; but when you have communications attacked, and the telegraphs cut all over the province how are you to meet the situation? You are dealing with a warlike, virile martial people, suddenly filled with a spirit of disorder. We know that in a number of villages in the Punjab the people had begun to believe that law and order had completely broken down. I would cite the case of the attack on the Treasury at Tarn Taran, attempt made by villagers on the line at Gumanpura, or better still the case in which a mob of villagers burnt the records at Anulakh. I maintain that, in the circumstances, there was every proof that rebellion had broken out, and not only broken out, but was spreading through the central Punjab. It was in these circumstances that your Excellency agreed to martial law. I will go further and say that you cannot judge of the justification of the order merely by the antecedent circumstances and facts; you ought to take into consideration also what happened immediately afterwards, since that also shows what the state of the Punjab was. The Hon'ble Pandit has referred to what happened at Gujranwala on the 14th, and as usual minimises the disorders that occurred there. He very unfairly I think, tried to throw the greater part

of the onus on the police officer in charge of the station, he said the subsequent disorders were due to the officer firing off his revolver. Will Council believe that before the revolver was fired two railway bridges had been set on fire, telegraphs cut and the Post Office also set on fire? He referred again to the hanging of a calf from the railway bridge, and he thought that the fact afforded some sort of explanation of what happened afterwards, since the public believed that the Criminal Investigation Department had done it. That suggestion caused at the time a ripple of laughter in Council, and I will therefore avoid criticising it. But, my Lord, when I hear him tell the story about this calf, and the pig said to have been killed near a mosque, I could not help thinking of the expression we so often use about a cock and a bull. There was no justification for the disorders and outrages that took place at Gujranwala, for they took place before the crowd was fired on at all. It was not, as he would have his believe, a fortuitous collection of schoolboys bent on winton mischief that set fire to the railway bridges, nor was it a mere fortuitous collection of people that pulled up the permanent way or which deliberately cut the communications with Lahore. The firing by the police at Gujranwala did not result in many casualties, and it was fortunate perhaps in the circumstances, since this was a case in which a young officer, without any senior Magistrate to give him assistance, had to deal with matters on his own responsibility, and quell disorder which resulted in the burning of the railway station and a number of Government buildings, the burning of the church, and the looting of the goods shed where there were goods to the value of eight lakhs of rupees. I protest against the allegation that there was any explanation or justification in anything that that police officer did for the action of the mob. That was one instance of what happened on the 14th, and it was not an isolated instance. If disorder had stopped there, you might say that the declaration of martial law was hasty; but it did not stop there. I have the record here of a large number of cases showing the extent of the disorder and the danger to communications, though I will not venture to try the patience of the Council by reading them all. Let me finish the record of the 14th. On that day—the day of the trouble at Gujranwala—an attack was made on a European officer in the train at Hafizabad. Wires were cut near Batala in the Gurdaspur district, there was a strike on the Railway in Hissar district, workmen stoned the time-keeper's office at the Railway workshops at Lahore, telegraph wires were cut between Lahore and Amritsar, and an unlawful assembly, at which decision was taken to indulge in general looting, was held at Padhana. Down in the south there was a railway strike at Samasata, and the telegraph wires were cut. Up in north at Rawalpindi seditious notices were found posted calling on the people to rise during the night. At Rohtak there was a joint attack on the line by the mob and the railway staff, a railway bridge was damaged and attempts made to wreck a mail train. At Sialkot wires were cut between Sialkot and Wazirabad. Now I come to the 15th. At Gujrat a crowd attacked the Railway Station, and smashed the telegraph instruments, the police had to fire on the mob. At Malakwal junction in the same district a mob was only prevented

from making trouble at the station by the presence of troops. In the Jhelum district a train was derailed on the main line at Kila. At Sialkot wires were again cut near Dhariwal. In Lahore District grass stacks were set on fire near Bhangali and Pidin. At Hafirthail in the Gujranwala district the mob attempted to rescue men arrested damaging telegraph wires and the police had to fire on them. At Chubarkana, also in the Gujranwala district, the station was attacked railway lines torn up telegraphs cut and the station burnt and looted. The market was only saved from the mob by the arrival of an armoured train. Close by the Dhaban Singh railway station was burnt and all the telegraph wires cut, and late at night the Mounin station was burnt. At Wazirabad in the same district a mob pelted the troops at the station with stones, cut wires at the station, and then burnt the house of the Rev. Mr. Bayley a missionary who had resided for very many years in the district and who (as the Commission stated in their judgment) was greatly respected by everybody; he was a linguist of wide renown and the mob buried not only his property but what was even more valuable they burnt the records of many year scientific labour. At Gojra in the Lyallpur district a mob endeavoured to get an engine-driver to refuse to start his train by telling him that the troops at Multan had mutinied. A number of telegraph wires were cut in Rohtak. At Sialkot, an attempt was made to fire a railway carriage in a siding. Let me go on to the 16th. In the Gujrat district a mob entered the Town Hall at Jalalpur Jatan insulted the Municipal Commissioners, and damaged the furniture, and at night the railway line was dismantled near Malakwal resulting in the derailment of a train next morning and the loss of two lives. In the Jhang district telegraph communication was interrupted between Jhang and Subhaga. In the Lahore district telegraph wires were cut at Changa Manga and Raewind. In Rawalpindi telegraph wires were again cut. In Sialkot, the permanent way was attacked between Sialkot and Wazirabad and the wires cut. In the Gujranwala district all wires were cut near Sangla station and a murderous attack made on a European telegraph Inspector. Wires were cut in four other places on the Sangla Shahdara line.

I leave the 16th and come to the 17th. In the Gurdaspur district telegraph wires were cut between Chhaina and Dhariwal, and three other places, and telegraph wires were cut between Kaler Halan and Kunja in the Jullundur district. In the Lahore district, near Jallo and Harbanaspore, an attempt was made to derail a train by placing obstructions on the line. In the Lyallpur district a party proceeded to a neighbouring village and returned after breaking the telegraph insulators and cutting telegraph wires *en route*. At Lyallpur itself a stack of Government *Shoors* valued at Rs. 50,000 was set on fire and burnt. In Rawalpindi, telegraph lines were interrupted near Gujar Khan. Trouble did not even stop on the 17th. On the 18th, in the Ferozepore district obstructions were placed on the railway line; in the Gurdaspur district canal wires were again cut. In the Jullundur district Sidhwan flag-station was burnt. On the same day the 18th, at Lyallpur an attack on Mounan Kanjan station was

only interrupted by the arrival of troops, and a gang of villagers from a village colonised by Manjha Jat Sikh colonists, came out at night and tried to wreck the line between Toba Tek Singh and Jhamiwalla Well, I fear, I have already wearied you by narrating this series of events, but it was essential in order to prove my point that I should bring them to the notice of the Council. It is impossible to allow any minimising of what happened in the Punjab between the dates I have mentioned I maintain, and I repeat to the Council, that not only should we take into consideration what happened before the declaration of martial law, but we are entitled to quote as justification of our action what happened immediately afterwards as showing the real state of the province

"Now I will not attempt to deal at any length with the legal aspect of the case. It was necessary, for the declaration of martial law under Regulation X of 1804, that there should be either war or open rebellion I understand that jurists have differed as to what constitutes open rebellion, but, I believe, it is fully accepted that to establish the existence of war you do not need the existence of an army with all its paraphernalia. What is quite certain, and what, I think, I may with confidence place before the Council is this, that to justify a declaration of open rebellion, it certainly does not require the existence of an army or of an attack by armed forces. Why, the Hon'ble Pandit himself referred in the course of his speech yesterday to open rebellion in the Gordon riots I maintain that the Gordon riots, which were treated by martial law, were in no wise as serious as what happened in the Punjab on the dates I have mentioned There you had a case, and readers of 'Barnaby Rudge' will remember it well, in which crowds assembled more or less out of religious animosity, burnt chapels and ended up by burning distilleries, yet under the law of England it was held to justify the application of martial law, what is more, the action taken to suppress disorder was held to justify the application of an Indemnity Act I put it to the Council that the justification necessary for Government to declare the existence of a state of rebellion, is a matter of common sense, and I maintain that the account which I have given of what happened in the Punjab in the middle of April would justify any Government in declaring that there was a state of rebellion in the Punjab If the Council will agree with me that Government merely exercised ordinary common sense in making that declaration, then, I think, a great part of the Hon'ble Pandit's case falls to the ground

"His contention was that if martial law was not justified, then an Indemnity or Validation Act is not justified I maintain the state of things in the Punjab shows very clearly that martial law was justified, and it follows as a corollary that you must have an indemnity and that you must have a validation

"My Lord, when I began to speak I intervened more or less as giving evidence of facts. But there is one other consideration which, before I sit down, I should like to put to the Council India is only now on the threshold of its political career, and it will not escape all the surging troubles which

have come to the world since the war since the beginning of unrest in the world at large. The officers of State, Indians as well as Europeans, and in the future probably more Indians than Europeans, will have to deal with those troubles. I have quoted to you one case at least in which an Indian officer without any European support, had to deal with very serious trouble the case at Kasur: there are other cases, such as that of Tarn Taran and Hafizabad. I ask the Council to reflect whether it is wise that officers of State, and particularly Indians should feel that they are without support in dealing with troubles such as those I have enumerated. I feel myself the case of Indians to be infinitely harder in this respect than that of Europeans. They are liable to criticism of the most intimate nature. I mean in their families and in the circle of their friends. If they do anything which is thoroughly unpopular they are liable to social and perhaps even to religious ostracism. Is it right is it fair to hesitate for one second to give them support for the reasonable use of their discretion? I appeal to the Council to view this case with some sense of proportion and with something of insight into the future. I appeal to it not to look at it in any spirit of partisanship. If I may I should like to quote the words of one who, I think was not less distinguished by patriotism and by love of his country than those who have been most keen in their attack on this Act in the last few days. Before the Hon'ble Mr Sastri left Bombay he spoke as follows —

At the same time he was one of those who believed that the Punjab Government had had good cause to use strong measures—perhaps the measures they had used were excessively strong far stronger than the necessity of the case required—but they had had a case for the use of strong measures. No Government in the world, however mild or sympathetically disposed, would have sat quiet without using stringent measures to restore order when they had a mob sprinkling kerosine oil on buildings and burning them down clubbing and burning Europeans to death. They were bound to render to Government the most cordial co-operation in bringing things once again to a normal state.

Now I quote those words, my Lord because, I think, they show that an Indian public man, distinguished for his public spirit, can yet give Government its due, can yet recognise the gravity of the situation in the Punjab, and can retain his right of free criticism without falling into the attitude of the persistent and unreasonable partisan. It is the spirit of that speech which I commend to the Council in dealing with this question.”

The Hon'ble Mr Sachchidananda Sinha — My Lord in the course of the last few days I find I have been called upon to address this Council for the second time upon the Punjab affairs. On the first occasion it was due to the Resolution of my friend the Hon'ble Pandit Malaviya, that I had to address this Council; now it is in connection with a Government Bill that I find I have again got to express my opinion. The Hon'ble the Home

ver in introducing the Bill yesterday and asking for leave of this Council
 a speech, which if I may say so without impertinence, was free from
 trace of bitterness or acerbity. If anything, it was a little unnecessarily
 ill, due perhaps to his emotional Celtic temperament, but otherwise I
 no grievance against it. And, I may say in justice to him that, in
 using the Bill his opening words were solicitous of the co-operation
 non-official members of this Council, and he begged of us not to import
 our speeches any needless acrimony or bitterness. I may venture to say,
 Lord, that the Indian members who have so far spoken have, on the
 , adhered to the suggestion thrown out in such a friendly way by the
 the Hon'ble the Home Member. But I wish I could say that the suggestion had
 as well received and acted up to, in the spirit in which it was sought
 pressed, by the European members in this Council. I am sure
 voicing the unanimous opinion of almost all the Indian non-official
 ers of your Lordship's Council when I say that the friendly admoni-
 f the Hon'ble the Home Member was completely lost upon the
 the Mr. Thompson about which it will be necessary for me to say a
 words later. But before I do so, I desire to express, if I may be
 d, my whole-hearted appreciation of the spirit underlying the Hon'ble
 Hailey's speech. Mr. Hailey has presented, it seems to me, the case
 the Government in a spirit of such remarkable fairness and with such
 advocacy as to carry conviction to a certain extent even to the
 of his opponents, and this is the highest compliment I can pay
 n. If all speeches, my Lord, on the Government side were as fair
 s skilful, I am sure the non-official members of this Council could
 sily persuaded, even on most contentious matters to see, at least
 ly, eye to eye with the Government. But before I make my sub-
 ns to your Lordship in regard to the Bill and the reasons why,
 most careful consideration, I have not been able to agree with the
 the Hon'ble the Home Member as to the desirability of its introduction at
 present moment, I should like to say and I am sure some of my
 ean colleagues here, if not all, will agree with me—that the langu-
 which was indulged in this morning by the Hon'ble Mr. Thompson is
 strongly deprecated. Because we non-official members of the Council
 s opinions which may not suit the views and sentiments of our
 ean colleagues, for them to indulge in the style and language and
 personal attacks as did the Hon'ble Mr. Thompson on Mr. Malaviya,
 mit, my Lord, with the greatest deference, is highly objectionable.
 Malaviya is a gentleman who is quite capable of defending himself.
 ill survive Mr. Thompson's attack, as he has done others in this
 al and outside. He is a gentleman held in the highest esteem
 hout the length and breadth of India for his devotion to the
 y, and however much you may differ from his views or his manner
 esenting his case, there can be no justification for anybody to have made a
 nal attack on him as Mr. Thompson did this morning. —

The Hon'ble Mr J P Thompson — My Lord may I rise to a personal explanation? I did not attack the Hon'ble Pandit for his opinions, but for his statement of fact

The Hon'ble Mr Sachchidananda Sinha — The Hon'ble Mr Thompson told us—I quote his words—that he was a great admirer of Sir Michael O'Dwyer. Those who listened to his speech this morning hardly needed that assurance, for those who remember the famous speech of Sir Michael O'Dwyer in this Council must have felt satisfied that the Hon'ble Mr Thompson's own way of handling facts is reminiscent of the methods of the late Lieutenant Governor of the Punjab. When I find the Hon'ble Mr Thompson charging the Hon'ble Pandit Madan Mohan Malaviya with distortion, exaggeration and misunderstanding, when I find him again, charging Pandit Madan Mohan Malaviya with credulity, gullibility, a lack of the sense of proportion and the power of closing his eyes to the political situation, and when I find him subsequently winding up his peroration by saying that in intelligence and mentality he was correlated with the lower orders, I bespeak to these the attention of the Council and venture to ask whether it is a fair presentment of the case, or one that can be justified.

Now my Lord, I shall pass on to other matters. The Hon'ble the Home Member was pleased to commend to the attention of this Council—and I think he particularly looked hard at me when he did so as if he tried to stare me out of countenance—certain articles which had appeared in the *Civil and Military Gazette* of Lahore on this question by an anonymous scribe who signs himself as An Indian student of Constitutional Theory and Practice—a rather long and pompous designation under which he takes shelter. The Hon'ble the Home Member asked us particularly to read those articles which he said, put before us the whole case in defence of the Bill which we are now discussing. The Hon'ble the Member did not at the same time ask us to read a reply to those articles which appeared in the *Tribune* of Lahore. Perhaps he had not seen it himself. Now this writer my Lord who has taken refuge in anonymity says some very interesting things in his articles which have a bearing upon the point we are discussing now. I believe the Home Member asked us to read the articles for the reason that the writer says:—

Indian publicists and Indian editors (I am afraid I come under both these categories) should have, therefore, no sort of quarrel or dispute with the coming Indemnity Bill. Any unreasoned or obstinate opposition will show how ill-equipped and ignorant of the very A B C of the constitution are our leaders in the Legislative Council and the writers in the Press.

I fear it was for this particular reason that the Hon'ble the Home Member commended the articles to our special attention. Further on, I find that this anonymous writer who comes to teach us the elementary principles of Constitutional law concludes by saying:—

'I also hope that the Indian members of the Imperial Legislative Council and particularly the Hon'ble Mr. Malaviya on whom the mantle of the irreconcilable oppositionist seems by an irony of circumstances to have descended, will not fritter away their energy and their time in an unreasoned, purposeless and infructuous opposition to a constitutional practice that stands hallowed by the observance of centuries in democratic England itself'

"Personally, my Lord, I shall be sorry, indeed, to waste a minute of my time in any unreasoned, purposeless or infructuous opposition to a Government measure. It has been my effort all my life to offer reasoned criticism and not to lead a purposeless, infructuous opposition. The writer seems to forget that, whatever weight of reason there may be on our side, any opposition here to a Government measure is bound to be, so far as we are concerned, infructuous, because, when the Government bring in a measure, there are behind the Front Government Benches the serried ranks and solid phalanx of our official friends, 35 strong, who sit here for the purpose of supporting the Government in any measure the latter like to bring in, whether it affects the European non officials or the Indian

Theirs not to reason why,

Theirs not to make reply,

Theirs but to vote and die

What is the good in a Council like this for any of us to try and persuade the Government? Once they have made up their minds that a measure has to be got through this Council, the old shibboleth of the responsibility for maintaining law and order being on the Government is trotted out and there are those 35 valiant soldiers to vote down any opposition that we may have to offer. Therefore, it is not for the purpose of carrying on any infructuous opposition that I have to place before your Lordship a few observations. The reason for it is this. Your Lordship's Government, as the Executive, have done certain things, have taken a certain line of action. Your Lordship's Government now come before this Council to ask the moral assent of the non official members to the view taken by the Executive. If I am not asked for my moral assent, if the Government simply ignore me, I shall make no grievance of that. I shall not take up in that case a minute's time of this Council. But when the Hon'ble the Home Member gets up and puts forward reasons and arguments before me and asks me to give my moral assent—for my vote does not count for anything—then I am bound to examine his arguments and make my submissions as I conceive them to be.

"Coming, therefore, to the question of moral assent, my first submission is that in the preamble of this Act I find it stated—

Whereas owing to the recent disturbances in certain districts in the Punjab and in other parts of India, it has been necessary for the purpose of restoring order to resort to martial law and so on and so forth.

Now supposing the preamble had been worded like this:—Whereas owing to the recent disturbances in certain districts in the Punjab and in other parts of India, the Governor General in Council had deemed it right and proper to establish martial law therein I would have had nothing to say against it. But when your Lordships Government ask my assent to the declaration that it was necessary to proclaim martial law I am entitled to say that quite apart from whatever views I may hold, it will be prejudicing the work of the Committee your Lordships Government have been pleased to constitute if I were to give my assent now to this preamble as it stands. Therefore quite apart from the facts as to what transpired in the Punjab—I have heard different versions of them; one was given by the Hon'ble Pandit Madan Mohan Malaviya who put forward the cases of those persons, subjects of His Majesty the King Emperor who are said to have grievances in the matter while contrary versions have been given by Messrs. Thompson and Hailey who say that the facts are not exactly as the Hon'ble Pandit Madan Mohan Malaviya put before the Council—what I say is this. You have constituted a Committee to go into this matter to analyse and sift the evidence and to come to certain conclusions. What will be the value of those conclusions if we now assent to this preamble that it was necessary for the Government to declare martial law? Therefore, my submission is, that by assenting now to this preamble the non-official members of this Council, whether Europeans or Indians, will be making the work of the Committee infructuous, and here I may be permitted to refer to one or two observations which were made

The Hon'ble Sir William Vincent — May I inquire, my Lord, with a view to shorten the debate, if the Hon'ble Member's objection to the Bill is confined to this statement in the preamble? Because, I may say now my Lord, that Government are quite prepared to reconsider the question of this preamble."

The Hon'ble Mr Sachchidananda Sinha :— That, my Lord, is but one of my objections. That is No. 1. But certainly if the Government will meet us half way it will be of great importance. I hope the Hon'ble Member will agree to that alteration. Now my Lord, when the Hon'ble the Home Member put that question, I was going to deal with one or two observations of my friend, the Hon'ble Mr. Crum. Without the least desire to cast any aspersion of even the mildest character on my esteemed friend, I do say that I can quite understand his difficulties in not being able to appreciate the points—the legal points—invol ed in this Bill. To him the matter of fact is that Government have done certain things; they gave certain promises to their officers, and why should not those promises be carried out by the Government? That is the way

it strikes him and he, therefore, characterised the attitude of those who oppose this Bill at the present stage as dishonest, ridiculous and piteous—rather unnecessarily strong words those, for which there is no justification. He also said that it seemed to him that the only object of those persons who are offering opposition to this Bill is to persuade the public outside this Council that the Government have done something wrong. Well, I desire to assure him that, far from that being the object of those of us whose misfortune it is to differ from the view of the Hon'ble the Home Member, we are trying to persuade the Government to do what we conceive to be right. That is my answer to the Hon'ble Mr Crum. I think that in saying what he did he did a great injustice to us, who come here at the sacrifice of time, money and energy from different places in British India to serve our country to the best of our lights.

“ Now, my Lord, this Bill deals, leaving the preamble alone, with martial law and indemnity, and to be able, therefore, to appreciate the points involved, we must have a clear notion of what these two are. I am aware that I am addressing the official benches and also the Hon'ble the Law Member, who is a great authority on the subject. But I make these submissions for his attention also. Now, what is martial law? Martial Law is defined, my Lord, in various standard works of legal literature, but I have no desire whatever to quote them. I shall only invite your Lordship's attention to what I find Lord Morley in his memorable 'Recollections' wrote to Lord Minto, when there was some talk of martial law being established a few years back. He said 'Martial law is only a fine name for the suspension of all law.' And again, 'If you declare martial law in India, it will be a gigantic advertisement of national failure.' Well, it is not for me to say whether the declaration of martial law in the Punjab this year was or was not a gigantic advertisement of national failure on the part of British statesmanship, but we must remember that when we talk of martial law in the Punjab, it means that for the time being there was no law at all, that the whole legal machinery was suspended, and that, as a matter of fact, things were done which would never have been done otherwise than under the cloak of martial law. I shall now, with your Lordship's leave, read out one short passage from a judgment of Lord Chief Justice Cockburn in the well known case of Phillips v Eyre (4 Q. B. D. p. 225), to show what an act of indemnity really amounts to. He said 'There can be no doubt that every so called Indemnity Act involves a manifest violation of justice inasmuch as it deprives those who have suffered wrongs of their vested right to the redress which the law would otherwise afford them, and gives immunity to those who have inflicted those wrongs not at the expense of the community for whose alleged advantage the wrongful acts were done, but at the expense of individuals who, innocent possibly of all offences, have been subjected to injury and outrage, often of the most aggravated character. It is equally true, as was forcibly urged on us, that such legislation may be used to cover acts of the most tyrannical, arbitrary and merciless character, acts not capable of being justified or palliated even by the plea of necessity, but

prompted by local passions prejudices or fears, acts not done with the temper and judgment which those in authority are bound to bring to the exercise of so fearful a power but characterised by reckless indifference to human suffering and utter disregard of the dictates of common humanity. On the other hand, however it must not be forgotten that against any abuse of local legislative authority in such a case, protection is provided by the necessity of the assent of the Sovereign acting under the advice of Ministers, themselves responsible to Parliament. Now I can quite understand an Act of Indemnity not working unnecessary hardship on the subject population where the measure is assented to by the Sovereign on the advice of his Ministers and with the assent of Parliament. But, here, my Lord, where the Government of India, the executive of the King Emperor in this country do certain things and then come and ask for the assent of this Council, with a standing official majority at their back, surely that cannot possibly convince the people that the action of the Government was right; and that the Government in asking this Council to pass this Bill will not be asking assent to a measure which might be of the most tyrannical and arbitrary character. That is the whole difficulty which we have to face in regard to this Bill; and that is why we have to be so very careful. Now my Lord, apart from that, we find that in this Bill there are provisions of a very serious character and it is, therefore difficult for us to assent to the policy of this Bill. Take my Lord, for instance, apart from the preamble, the provision in clause 2, which fixes the period of immunity from on or after the 30th of March 1919 and brings it down to the time when martial law had been completely withdrawn. In other words, by making this provision your Excellency's Government are asking our assent to give the operation of martial law retrospective effect. Now this question was raised in the House of Commons in 1906 by Mr Ramsay Mac Donald who, your Lordship may remember was appointed a member of the Royal Commission on Public Services in India by His Majesty's Government. I mention this fact so that it may not be said by the Hon'ble the House Member in referring to Mr. Ramsay Mac Donald; Oh, he is a crank, and all that sort of thing. Well he raised the question as to whether it was desirable to give retrospective effect in legislation of this kind to the administration of martial law. This is what he said: The second point was that this incident, the murder of two policemen, took place on the 8th February and martial law was proclaimed on February the 9th; that the incident took place at a time when there was no martial law in the colony at a time when the civil law was still in operation; yet the natives accused of the murder of the policemen were tried by martial law. Was martial law to be made retrospective in the future? Bad as martial law undoubtedly was and unjustified as those were, as he thought, who declared it, ten thousand times more unjustifiable was it, that this negation of all law should be made retrospective and to cover acts committed previously to its being proclaimed. The Right Hon'ble Mr Winston Churchill who was called upon to defend that measure giving retrospective effect to it said this in reply: Martial law is no law at all. Martial law is brute force. The only restriction on martial

law is, that no more force is used than necessary, and where more force is used than necessary, persons may afterwards be called to account unless covered by an Act of Indemnity. The Hon'ble Member for Leicester suggested that it was illegal to try these men by martial law for an offence committed before martial law was proclaimed. Of course, all martial law is illegal, and an attempt to introduce illegalities into martial law is like attempting to add salt water to the sea. Now, under clause 2 it is proposed to give retrospective effect. The Hon'ble the Home Member advanced no sounder argument than did Mr Churchill when he talked of adding salt water to the sea. Then, we find in clause 3 of the Bill that the ordinary rule of evidence is completely reversed, and we note that the burden of proof is cast on the plaintiff or the prosecutor.

The Hon'ble Sir George Lowndes —“ I think the Hon'ble Member is making a mistake when he says that the burden is thrown on the prosecutor.”

The President —“ I think it was a slip of the tongue.”

The Hon'ble Mr Sachchidananda Sinha —“ It is hard for your Excellency to realise what our difficulties are in speaking a foreign tongue in this Council. We are apt to make mistakes. Then, I find here further in one clause, that there is no limitation as to the places where officers are to be protected. I have no desire to take up any further the time of the Council, but my submission is, that many cogent reasons have been advanced by us why your Lordship's Government should postpone the consideration of this measure. Firstly, by the words in the preamble we shall be nullifying the effect of the report of the Committee. We shall be calling upon them to assume that it was necessary to declare martial law. Now, Mr Hailey may be satisfied as to that and Mr Thompson also, who was Sir Michael O'Dwyer's right hand man. I daresay he is, but we naturally feel a certain amount of diffidence about this point. Secondly, I have shown that the Bill is open to great objection in the matter of giving retrospective effect. Your Lordship's Government are no doubt aware that since it was announced in the *Pioneer* of Allahabad that the Government were going to bring in an Indemnifying Bill, Indian public opinion has been roused. It has been insistent that this Bill should not be proceeded with at the present time. My Hon'ble friend, Mr. Malaviya, referred in some detail this morning to the strong volume of public opinion on this subject. He showed by quotations from a well known London paper that public opinion, even in London, sees no justification for the Government's action in this matter. In India, I can assure your Lordship, almost every shade of public opinion, the so called moderate and the so called extremist, is unanimous in asking Government to forbear from pressing this Bill. Not only people of supposed advanced views, but even such a moderate man as Sir Narayan Chandavarkar, an ex-Chief Justice, whom, I believe, the Hon'ble the Home Member appointed last year as one of the advisers of Government.

The Hon'ble Sir William Vincent —“ He was appointed by the Bengal Government.”

The Hon'ble Mr Sachchidananda Sinha :— Then the Government of Bengal are entitled to praise for their choice in having appointed him as their adviser. I understand from the papers that even he sent to your Lordship a telegram asking your Excellency not to press this Bill at the present time. He has also written a long article in the *Indian Social Reformer* from which the Hon'ble Mr Malaviya quoted certain passages. Now my Lord I do venture as a responsible adviser of your Government to say that it is not right for the Government of India to flout public opinion in this way and say to us : Oh we are responsible for maintaining law and order the responsibility is cast on us by Parliament, and we shall do what we think proper. That, my Lord is a wholly wrong attitude. Public opinion has got to be appreciated ; it has got to be considered and given due weight to. We are apt to believe that public opinion came into existence in this country only with British rule and that it came here along with certain other Western ideas. As a matter of fact, even in the early days people who had not acquired English education knew the value of public opinion. My Hon'ble friend Mr Shafi will appreciate the well known lines of the great Hindustani poet, *A lakh*.

*Sun to saki Jehan men hai tera fisana kya
kakti hai tujhe khalk-e-khuda ghasbana kya*

which means do for God's sake listen to what people are saying about you and pay some respect to it. That shows that public opinion was held in great respect even in earlier days. Therefore, I say put off the Bill for two or three months. I understand the Committee will soon be out and will submit their report by the end of the year. Is there any advantage in pressing this matter at this stage notwithstanding public opinion to the contrary? I protest, my Lord, against the Government acting in defiance of public opinion ; the result of such action in the past has been acerbity and ill will on the part of His Majesty's Indian subjects. It is not desirable that the Government should repeat that experiment. I feel strongly that that would be a blunder. I do not want an indefinite postponement ; if that was meant I should vote against it. I am in favour of a Bill of Indemnity—the only question is, should it be passed now before the autumn session is over? I do hope your Lordship will take into your careful consideration the view I have put forward. A large number of Indian members of this Council, including the Hon'ble Maharaja of Kassimbazar and the Hon'ble Rai Sita Nath Ray take the same view as I do. My Lord, your Government will be in a stronger position by listening to and accepting the suggestion we have jointly made."

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The Hon'ble Lieutenant-General Sir Havelock Hudson — My Lord, my only reason for intervening in this debate is to clear up one or two remarks which have been made by my Hon'ble friend the Pandit as regards the action of certain officers and others connected with the suppression of rebellion in Amritsar. I do not think the Hon'ble Member has given these events in their clear perspective, or in their proper perspective. The first event to which I shall refer is the Jallianwala Bagh, and in order to

give the situation as it would appear to the Officer Commanding at Amritsar, I must ask your Lordship's permission briefly to state the situation at Amritsar on the 10th of April. We have the attempts of the crowd in the Civil Lines, the troops stoned and ordered, after due warning, to fire, the attack on the Telegraph Office, the Telegraph Master rescued by an Indian Officer when in the hands of the mob, the murder of a European guard at the goods station, the murders of the Manager and Assistant Manager of the National Bank, the murder of the Manager of the Alliance Bank, the attack on the Chartered Bank, firing of the Town Hall and its sub post office, looting of other post offices, attack on the Zenana Hospital, the assault on Miss Sherwood, the burning of the Indian Christian Church, and attempt to fire the C M S Girls' Normal School, the murder of a sergeant of the Military Works Department, a second attempt of the mob to break into the Civil Lines, troops again stoned and ordered to fire, later on towards nightfall systematic destruction of all lines of rail and telegraph communication, and, finally, the destruction of two small railway stations and the looting of a goods train.

"My Lord, does not this read rather like the preamble of the Indemnity Act on the Gordon riots of which the Hon'ble Pandit kindly made us a present? The above would be the situation as it would appear to an officer who found himself in a position such as confronted the General when he assumed command at Amritsar on the 11th April last. It will be realised, I think, that the situation was one of unexampled gravity. The Commissioner of the Division had definitely stated 'that the situation had passed out of his control' that he must rely on the military authorities to restore order by the exercise of military force. The city was in the hands of an unruly mob, organised attacks had been made on Government property, Banks had been burned and looted, railway and telegraph communications had been interrupted, inflammatory posters inciting to 'die and kill' had previously been posted on the clock tower in the heart of the city, and the lives of Europeans had been taken in circumstances which I shall not describe in detail. It would be clear to the officer in command that the rebellion was not confined to Amritsar alone. He would be aware of the riots at Delhi and Lahore, and he would have had an opportunity of gauging the temper of the people by his personal observation. He would have been aware of the danger of the spread of rebellion into the surrounding districts. As an officer in a highly responsible position he would know that it was his duty to take all measures necessary to restore order, and that his actions would be judged by the measure of his success in so doing. He would also know that he would be held personally responsible for any action of his which might be considered to be in excess of the reasonable requirements of the situation. You cannot conceive that any officer, on whom such a responsibility had been thrown, would enter on his task in any spirit of light heartedness, nor would an officer of his seniority and experience (he had 34 years' service) set about his task with a disregard of the sanctity of human life or with a desire to exact reprisals for the acts of rebellion which had already

been committed. His first act would be to dispose his troops with a view to the protection of life and property. His second would be to warn the populace as to the result, if it became necessary to use military force in the suppression of further disorder. These are the steps which were in fact taken by the officer in command at Amritsar.

On the 11th and 12th he re-organised his troops and on the 12th he marched a column round and through the city in order that a display of force might have its effect on the mind of the populace. We have it on record that the bearing of the inhabitants was most insolent and that many spit on the ground as the troops passed. From the shouts of the mob it was clear that they were in a entirely a repentant spirit. No military force was used on this occasion, and the officer in command decided to issue proclamations as to his future intention before employing such force. From military point of view he would have been quite justified, I hold, in using force on that day but the General Officer Commanding decided to pursue his policy of patience and conciliation. A proclamation was issued on the evening of the 12th and on the morning of the 13th April, the Officer Commanding marched with a body of troops through all the main streets of the city and announced by beat of drum his intention of using force should occasion arise. The people were permitted to collect in order to hear the proclamations.

The announcement that unlawful assemblies would be dispersed by fire was received with roars and cries, indicating that the mob had no belief in the sincerity of the warning given. While the troops were still in the city information reached the Officer Commanding at about 12 o'clock that in spite of his proclamation a big meeting of rebels would be held at the Jallianwalla Bagh at 4.30 that afternoon. As this place had been used before for meetings, and as large assemblies had been addressed by the heads of the agitation on the 29th and 30th March and the 2nd April, and as a dense mass meeting had assembled here on the 6th during the *kartal* and had listened to speeches intended to bring Government into hatred and contempt it would have been clear to the officer in command that he might expect deliberate defiance of his orders. Now he was well aware of the events of the 10th of April when the murders of Europeans and the attacks on property had been made and when the firing which had been employed to suppress these disorders had been totally inadequate. The Officer Commanding at Amritsar had to decide about midday on the 13th of April how he would act if the projected meeting took place in direct defiance of his authority. After making dispositions for the safety of his command he found that he had but a small striking force at his disposal. I believe the number was 23 men of one regiment and 25 men of two other regiments belonging to the Indian Army and in addition 40 Gurkhas armed with *kabris* only and two armoured cars. Realising the gravity of the situation the officer commanding did not send, as he might have, a subaltern in charge of this small force. He

realised that it was an occasion on which he, and he alone, must exercise the full responsibility. He marched this force straight to the Jallianwala Bagh, leaving the armoured cars which he had also taken with him behind, because they could not get into the Bagh. On reaching the Bagh, his force was confronted by a vast assembly, some thousands strong, who were being harangued by a man who was standing on a raised platform. The Hon'ble Pandit would give us to believe that this was a fortuitous meeting of villagers and that they were listening to a lecture. That was not so in accordance with the facts, so far as I have been able to gather. It was clearly the duty of the Officer in Command to disperse this unlawful assembly. Realising the danger to his small force, unless he took immediate action, and being well aware of the inadequacy of the measures taken to restore order on the 10th of April he ordered fire to be opened. The crowd was dispersed and the force was withdrawn. I have given the Council this narrative to show how the situation would be viewed by the soldier, and will content myself with saying that from a military point of view the sequence of events justified the exercise of military force, and that the object of its exercise was fully attained. Also, from a purely military point of view, the Officer in Command would have been gravely at fault had he permitted the elements of disorder to continue unchecked for one moment longer.

'The next point which I wish to turn to is another one to which reference has been made. It is the issue by the Officer in Command at Amritsar of orders that any persons who wished to pass the scene of the assault on Miss Sherwood should be made to crawl on their hands and knees. As this incident has been described at a meeting of the Bombay Provincial Congress Committee and All India Home Rule League as a 'petty assault on a woman', I think it only right to remind this Council of what actually had occurred. In the first place, I would say that this is not merely an isolated instance of an attempt to assault European ladies. We have it on record that on the 10th of April the mob entered the Zenana Hospital in their endeavour to find the lady doctor in charge, who however escaped. After leaving the building the crowd again returned on information given by a disloyal servant, to search for her again, breaking open the rooms and cupboards in their search which was fortunately fruitless. On the same day, the mob attempted to set fire to the Church Missionary Society's Girls' Normal School, in which were four lady missionaries who remained hidden. I am sorry to have to refer in some detail to the assault on Miss Sherwood, but it is necessary, because I wish this Council to view the situation as the Officer Commanding on the spot must have viewed it. This lady had for many years been working in the city and was greatly respected, and the assault on her was characterised by extreme brutality. The following abridged account is taken from the judgment of the Commission which tried her assailants —

'When she was bicycling from one of her schools to another, she encountered a mob which raised cries of 'kill her' she is English

She wheeled round and tried to escape but took a wrong turning and had to retrace her steps. She reached a lane where she was well known and thought she would be safe but the mob overtook her and she was also attacked from the front being hit on the head with sticks. She fell down but got up and ran a little way where she was again felled being struck with sticks even when she was on the ground. Again she got up and tried to enter a house but the door was slammed in her face. Falling from exhaustion she again struggled to get up, but everything seemed to get black and she thought she had become blind.*

Her dress was seized, her hat was pulled off, she was struck with fist, she was caught by the hair and beaten on the head with shoes and was finally knocked down and struck on the head in a bath. She suffered grave injuries to the scalp and was in a critical condition when he left for England.

I feel sure that the Council will agree that it is not surprising that the Officer in Command took the view that some unusual measures were necessary to bring home to the mob that such acts of violence directed against defenceless women could not be tolerated. Something was required to strike the imagination and impress on all the determination of the military authorities to protect European women. This Council can readily understand how easily the feelings of soldiers would be outraged by acts of this nature and that they might be led to uncontrolled reprisals. Incidentally it is worthy of note in this connection that we have no charge against any of our soldiers during this rebellion. It is easy, my Lord, to criticise the orders issued by the Officer in Command at Amritsar but the circumstances were altogether exceptional and the punishment, though humiliating was not such as to cause danger to life or physical hurt. Except on one occasion when a body of prisoners were brought down the street in which Miss Sherwood had been assaulted no compulsion was brought to bear on any individual to submit to the order. The order remained in force for a period of five days and there is good reason for the belief that, except for the party of prisoners already mentioned, those who were subjected to the order came voluntarily to submit to it for the sake of notoriety or martyrdom. One man after going down the street on his hands and knees three times had to be stopped giving further exhibitions.

My Lord, the order was of course an unusual one and not one which might have been considered necessary by other officers in like circumstances. The Officer in Command at Amritsar will doubtless be prepared to justify his action should he be called upon to do so.

The next point to which I wish to refer is, the use of aeroplanes at Gujranwala. I am not concerned in justifying to the Council the order given by responsible authority to send aeroplanes to Gujranwala on the 14th and 15th April. I merely wish to explain from the point of view of an officer who

*For full text of the judgment, see Appendix II pages 112-113, ante

receives such orders, how he would act in aid of the civil power and for the protection of life and property when so ordered. The situation, as far as it was then known would be explained to him and his action would be left to his discretion. In this particular instance information was received by the military authorities at Lahore that a mob had attacked the railway station at Gujranwala, had looted the goods shed and had set fire to the Tehsil, the Dak Bungalow, the court house and the Church. It was known that there was only a small body of police at Gujranwala at the time and no troops. Owing to the interruption of communications, to despatch troops would have involved excessive delay. If any measure of protection were to be afforded in time, the use of aeroplanes provided the only possible solution. Well, I think, I must explain to the Council the limitations of aeroplanes when used for such a purpose. It is not possible for the pilot or observer to communicate with persons on the ground, either to obtain information or to issue warnings as to the measures he intends to adopt. In the first place, the noise of the engines precludes all verbal communication, and aeroplanes have not yet reached that development when they can hover in mid air. From their bird's eye-view, the pilot and observer are able to ascertain that buildings are burning, that railway communications have been interrupted and trains destroyed, and that crowds are collected, they cannot easily discriminate between the innocent and the guilty, but on the other hand, from this bird's eye view the observer is able to get a much better idea of the general situation than an officer who is only on foot. When, however, it is clear from the nature of the damage that general rebellion is in progress it may be a reasonable assumption that the crowds are collected with criminal intent. The presence of an aeroplane over a crowd is in itself a warning to those engaged in disorder that they are likely to be taken to account unless they disperse, and the dropping of the first bomb (the effect of which is local but the noise of which is considerable) affords a further warning which can hardly be mistaken. It may of course be argued that a bomb cannot be dropped nor a machine gun fired from an aeroplane with any great degree of accuracy. This may be true, but when the mark aimed at is unlawful assembly it is not very material whether those in front or behind are made to suffer. It may be remembered that it is often just those persons who are most responsible for incitement to disorder who keep in the background and urge others forward to commit excesses. There is even a third category which never appears on the scene at all. Even admitting that the aeroplane in its present state of development is not an ideal instrument for enforcing order, still where as in the case of Gujranwala no other military assistance was available, we must not blame the Officer Commanding the aeroplane for the limitations of his machine. My Lord, my object in recounting to this Council in some detail the measures taken by the military authorities to reconstitute civil order out of the chaos produced by the state of rebellion, is to show that there is another side to the picture which is perhaps more apparent to the soldier than to the civilian critic. No more distasteful or responsible duty falls to the lot of the soldier than that which he is sometimes required to discharge in aid of the

civil power. If his measures are too mild he fails in his duty. If they are deemed to be excessive he is liable to be attacked as a cold blooded murderer. His position is one demanding the highest degree of sympathy from all reasonable and right minded citizens. He is frequently called upon to act on the spur of the moment in grave situations in which he intervenes, because all the other resources of civilisation failed. His actions are liable to be judged *ex post facto* standards, and by persons who are in complete ignorance of the realities which he had to face. His good faith is liable to be impaired by the very persons connected with the organisation of the disorders which his action has soiled. There are those who will admit that a measure of force may have been necessary but who cannot agree with the extent of the force employed. How can they be in a better position to judge of that than the officer on the spot? It must be remembered that he has a right well on his part as far as the Government, it is tantamount to a declaration of War cannot be conducted in accordance with the standards of humanity to which we are accustomed in peace. Should not officers, and men who through no chance of their own are called upon to discharge these distasteful duties be entitled to the support which has been promised to them? My Lord I feel before I conclude, I must make a reference to the amendment which the Hon'ble Mr. Chaudhary proposed. I must confess that I heard this with some amazement. I suppose there is no class that has really suffered more by the disturbances in the Punjab than the forces of the Crown. Here they were at close of four years of war; most of them were looking forward to demobilization and their half-military leave and many of them to a return home. They were suddenly called on to perform what is the most distasteful duty as I have said before which soldiers are ever required to carry out. They had nothing to do with the outbreak of the disturbances or with the imposition of martial law. They only did their duty and as a recognition, the Hon'ble Member agrees that Government should defer till some indefinite date the fulfilment of their promises of support. My Lord it may be within the recollection of Members of this Council that Hon'ble Members both inside and outside this Chamber have repeatedly referred, and that with legitimate pride, to the services rendered by India and more especially the Indian Army. It was only last week that this Council listened to the Hon'ble Mr. Sarma's eloquent tribute to the services of that Army and yet it is that very Army that the Hon'ble Mr. Chaudhary by his callous amendment to this Bill would leave in the lurch. For what effect would the amendment have if accepted? Officers and men would be liable to prosecution for any illegal act committed under martial law and as martial law is in itself no law all their acts under that law would be illegal. Actions for damages, for illegal arrest and a host of other charges could be preferred against them and the question whether they acted in good faith would have no force with the courts which try their cases. My Lord, I think all soldiers would view with suspicion if not horror the silly suggestion that Mr. Chaudhary made that the actions would not come up at once, that they would be postponed for a month, then perhaps for two and

then again for three months and so on indefinitely. The Manual of Military Law, which is the soldier's only guide, is silent as regards martial law, there is only one chapter in the whole of that book relating to martial law, but that chapter is written by Lord Thring, and there is one sentence in it, which is the soldier's sole guarantee, which I quote below. It runs as follows —

‘It is only necessary to add that, when a proclamation of martial law has been issued, any soldier who takes, in accordance with the official instructions laid down for the guidance of those administering martial law, such measures as he honestly thinks to be necessary for carrying to a successful issue the operation of restoring peace and preserving authority, may rely on any question as to the legality of his conduct being subsequently met by an Act of Indemnity.’

“The Government, my Lord, have taken the only honourable course and that is to introduce an Indemnity Bill on the earliest possible occasion. To have done otherwise would have been the negation of Government and repudiation of its obligations.”

The Hon'ble Rao Bahadur B. N. Sarma —“My Lord, I am glad before I vote I have had an opportunity of listening to the statement of the case on behalf of the Punjab Government and of the military authorities. It is a matter of very vital importance that we should look at the question impartially and dispassionately and not fall into the error of saying ‘ditto’ to whatever the people say, at the same time reviewing the course which the Government may ask the Council to ratify. What does the Bill ask us to do? In the first place, it asks us to state as legislative authority that martial law was necessary to restore order in the Punjab. I do not think that is open to argument. The second point is, we are asked to protect the civil and military officers who have acted under the orders of Government in accordance with the promises made to them that they would be protected in whatever they did recently for the purpose of carrying out what Government had in view. I may note in this connection, my Lord, that the Bill does not confine its operations to the events which have occurred after martial law had been declared. It relates to events which preceded the declaration of martial law in the various districts of the Punjab. Therefore, I may say at once that there is a complete answer that people can give to this Bill as it stands, namely, that it is not a Bill intended merely to carry out the promises which Government made to its officers after martial law had been declared, but also to ratify the action of the Military and Civil authorities in the suppression of these disorders before martial law had been declared. It is open to the Government to bring in a Bill for the purpose of giving protection to its Civil and Military officers as to what took place before martial law, I quarrel with the position. This is a vital point. Then clause 3 throws the onus on the people of saying that any particular act which Government wished to carry out was not *bona fide*. If the question stopped there, there might be something to be said for the Bill, but we are asked to go further. We

are asked to say here whether we feel martial law was justified or not ; whether martial law was kept in force longer than the necessity required ; whether it was legal on the part of the Government ; whether they were right in passing Ordinance No. V or not. In any event we are asked to ratify all the convictions and sentences of the Summary Courts in respect of which the public are not in a position to know whether justice has been done or not done by reason either of the absence of the record or the absence of the full judgment. I ask the Council's attention especially to this aspect of the question, because had the Hon'ble Mr Crum and those who followed him taken into consideration the fact that we are asked to keep in prison those who might have been wrongly convicted, convicted on the passion of the moment, the matter may have assumed a different aspect. I am one of those who believe that any disorder whatever should be sternly put down at the initial stage. I am not going to quarrel with any measures that Government thought necessary for this purpose. I go further and say that those responsible should be severely punished. I go further and I agree with the Hon'ble the Home Member that, whether the Government were right or wrong the officers who carried out their duties under the orders of Government, especially in a country like India, ought to be protected if they acted humanely and in accordance with the dictates of a civilised Government. There is no quarrel with the Government on that score, but, my Lord I feel that the constitutional issues at stake in this controversy between the people and the Government are of such vital importance that we would do well to consider carefully before according sanction to this step. I understand there is justification for the belief held by the people, that if there is grave disorder the Government are prepared to treat the people of India like cattle—no consideration is necessary so long as it is expedient to bring about peace and order and to protect the lives and property of Europeans. That, my Lord, is the issue that has been raised by this unhappy controversy and it is therefore necessary to examine in detail whether these are real issues in sanctioning this Bill, and as to whether people are merely clamouring for the punishment of officers who have carried out their duties in a difficult time with reasonable precautions and regard to human life and suffering. It is not necessary in this case to consider whether some of the old dicta uttered by constitutional writers really justify Government in their action in declaring martial law necessary. On that basis I think people have some justification for thinking that in some of the occurrences, if may be riots and disorders, in the case of an unarmed mob, there was no justification for the employment of martial law. I am not going to take up the time of the Council longer because whether martial law is employed or not, I take it that the civil power has every right and justification for asking the military and the police to come to its aid in suppressing disorders, and provided the duties are carried out *bona fide* in good faith, and with due caution, there is no necessity for any more technicalities but on the question of constitution it has been said that martial law having been declared, it is necessary to introduce this Indemnifying Bill but I think,

my Lord, it is necessary to state that in the view of many of us martial law was unnecessary and should not have been declared. In this connection, I would draw the attention of the Council to what Mr. Dicey says on this question. He says — 'The question for our consideration is, on what principle, and within what limits, does armed resistance to the authority of the Crown, either on the part of an invading army, or on the part of rebels or rioters, afford a legal justification for acts done in England by the Crown, its servants, or loyal citizens, which, but for the existence of war or insurrection, would be breaches of law.' Throughout the question is treated as one of civil war, and, I think, the essence of the whole thing is, whether a section of the population, whether large or small, resisted with arms the authority of the Crown.

"Now, my Lord, the second point to which I would invite the attention of the Council is, whether according to all writers on martial law, it is not considered to cease the moment the necessity ceases. I do not think there is any single writer who states that in order to prevent a future trouble, in order to prevent similar mishaps, in order to preserve order, even though the disorders have been suppressed, martial law can be continued especially during a time when civil courts are in working order. Therefore, my second point would be, my Lord, that after the 21st or 22nd of April when according to Press Communiqués order had been restored in the Punjab, it was not right, it was not proper, for the Government to have continued martial law and to have created those tribunals to exercise jurisdiction in respect of all offences, whether those offences were committed or not. This has a vital bearing upon the question as to whether the Council will be justified in confirming the convictions and sentences passed by those tribunals, even though the Government have given us the assurance that they would be re-considered by two High Court Judges.

"Then the third point, my Lord, and what I look upon as the more important point, is this, and that is the moral aspect of the question. There are two theories of Government, one theory which attempts to employ only the civilized methods, however, long and protracted may be the struggle between the forces of order and disorder. And the other based upon the theory that in a country which is not thoroughly civilized, it is open to the Government to resort to terroristic methods if the object in view is an honest one, if the end to be achieved is the restoration of peace and order, and that it would not be wrong to humiliate a whole race, that it would not be wrong to subject them to indignity or to do whatever is necessary to terrorise or cow down the population if the object in view is to be achieved. My Lord, if the second theory is advocated, and that was the example that was set to us by some of the old sovereigns and perhaps it would be advocated even now by a few, but which has been repudiated most whole heartedly by all civilized Governments in the world, and for the suppression of which theory Great Britain herself has allowed herself to run into a debt of 8 thousand millions and the de population of her fur provinces. The question, my Lord, now is as to whether any British officer of

the Indian Government can be allowed to rule India on the second theory because the view I take of the facts is that there are several British officers who are under the impression that so long as order and peace are restored if a person believes that it is reasonable to do anything which attains that end and if that theory is to be accepted then certainly the Government are perfectly right in bringing forward clause 3 of the Bill. But if that theory is repudiated as I hope it will be repudiated by every true Britisher and by the Government, then it seems to me, my Lord, that on the face of it, it is impossible to throw the onus upon the Punjab Public of proving that the several acts, both by the military and civil authorities, are acts, which can be justified by rules of morality or by rules of humanity. It is therefore I find it difficult to give my vote to this clause although I agree that the officers are to be protected. It is necessary that my view which I believe is also the view of a large section of the people is open to criticism and it must be demolished if it is unfair because it is the view held by a large section of the Indian population, and it is well that the hollowness of that view should be exposed in all its bareness in order that people may take a right view of the situation. My Lord how do we look at the situation is this, and it is easier for me to do so because I am not hampered by some considerations which may hamper others. Although I objected to the Rowlatt Act, I never was in favour of an agitation on the lines of the *Satyagraha* movement. I was unpopular on that account, and therefore I say I am able to speak with greater fulness than many others. But, my Lord it must be said that it was not the *Satyagraha* movement which was responsible for these unhappy events, although it was the occasion and although—here I agree with the Hon'ble Mr. Halley—it created a certain atmosphere which led to these disturbances, it was not the real cause but it was the unhappy view of the Punjab Government that the prestige of the British race should be upheld against the warlike races of the Punjab by methods which cannot be justified in other provinces. We find that on the 30th of March there was no disorder; on the 6th of April there was no disorder. I assume for argument's sake that Satyapal and Kitchlen were preaching sedition and were trying to bring about excitement. Was there anything to prevent the Government from arresting these men and putting them on their trial? There is nothing to which the Indian public submits so cheerfully and loyally as an open trial. It is this theory of keeping up prestige by deportations, by secret methods, which the public have been resenting, and it was the deportation of these two men, whatever action may have been justifiable against them which was resented. That is the way in which we look at it. Well on the 10th some precautionary measures were taken. Assuming that the mob was unruly and assuming that it was incumbent on the officers to shoot some members of the mob, that would not afford any justification whatever for the lawless action of the mob after that. That is reprehensible and it ought to be put down with a stern hand. I agree with that also. But it affords an explanation of this tension between the British Government and the people on some subjects which has been

produced, especially in the Punjab on account of the difficulties in that Province and other causes. It is that tension which led to this racial difficulty. When the mob thought that they were unjustly dealt with, they did not distinguish between the British citizens and the British Government or between individuals. It affords an explanation, as I have said, but no justification. And then followed the unhappy incidents of the mob on the 10th. Hon'ble members will notice that up to the evening of the 10th there was no unhappy incident in Lahore. Communications were interfered with for a little time, but there was time for the news from Amritsar to reach Lahore before the unhappy incidents in Lahore took place, and therefore—I will not say it is right—there are many people who believe that the unhappy incidents in Lahore were the result, the natural result of the provocation which was given to the British community by the savage doings of the mob in Amritsar on the morning of the 10th. Then a large number of Indian lives were sacrificed, it may have been right, I will not question that now. But, my Lord, I cannot help thinking that, after the explanation which was given by General Hudson, people would be willing to think that the Jallianwala episode was not the result of the unhappy tension and temporary dislocation of certain officers who wanted to show what their attack upon European lives would mean, I think it was by way of reprisals. The public will still unhappily continue to think that it was by way of reprisals, by way of revenge, and not for a possible violation or disobedience of the orders of the authorities in prohibiting a meeting. They think that was taken advantage of to teach the mob a lesson, because it is impossible for us to conceive that when men from all parts of the Punjab, Jats and other cultivators who had nothing to do with politics, were collected in large numbers for the *Bysakhi* fair, no precautions would be taken against shooting down such a large mob simply on account of the reason that it was a lawless mob which violated and disobeyed the injunctions of the Government. Hon'ble members will notice that it was only that morning that the Seditious Meetings Act was proclaimed to be in force. It was on the 13th morning. There was hardly time for the public to know that meetings were prohibited under that Act. But I should assume that a certain section of the people did know of the prohibition and in spite of the prohibition went there, and others gathered there from curiosity or because there happened to be a fair. But no explanation has been forthcoming to the effect that the mob resisted or did any act which justified the shooting down of any person. And what is more important to notice is, assuming, for argument's sake, that a few shots were thought to be necessary to cown the people and send them away, there was no justification for shooting down 300, 500 or a thousand as is generally believed. That, my Lord, is the crux of the whole situation. There was one reference in General Hudson's speech which gives a partial support to this. The General Commanding felt that the punishment that was awarded on the 10th was not sufficient to teach the people a lesson, they were still continuing to be insulting, and therefore it might be, inasmuch as good

order and peace were in his hands, he felt that a few more drastic measures had to be taken and hence the unhappy incident.

I must meet a point raised by the Hon'ble Mr. Bailey and that was in regard to the incident at Kasur. The incidents at Kasur on the 13th are partly explainable in the incident at Amritsar on the 10th and the incidents at Lahore on the 10th. I am not justifying the act of the mob; I am not in any way pillorising what they have done. I am only saying that it is an explanation, but a explanation which would show that there was no rebellious tendency in the land that it was only bitter resentment at the thought that British officers should have shot down Muslims and Indians thought it was a just line. I do not say it was unjust.

Then what will we say after the 13th? I think the paper will show that the news reached Gujranwala in the 13th morning when a train was held up there. And it must be remembered that newspaper and all classes came to Amritsar for the *Bhramkshi* from all parts of the Punjab and carried back reports, it may be exaggerated reports, of what had taken place in Jallianwala Bagh all over the Punjab, and therefore it is nothing surprising in people becoming lawless suddenly when they felt that they were most inhumanly dealt with. I do not say it is a right feeling or a wrong feeling but that is the feeling, and is there anything impossible in the view that with such inflammable material in the Punjab, as we are told, the mob should have behaved in that way? Then in Gujranwala we find possibly after the spreading of this news, it is impossible to say without an inquiry because there was time for the news to reach them, after the spreading of this news, we find all the incidents in Gujranwala taking place the burning of the railway station and the other actions of the mob. Here, my Lord I must as a Member of Legislative Council decline to sanction the action either of the civil authorities or the military authorities in using bombs and aeroplanes. Even in a state of war—but we are not concerned with that—at any rate in peaceful times even with a lawless mob like that in Gujranwala, they are not justified. That is a doctrine to which we should not give our legislative sanction. It would be most mischievous and harmful and dangerous.

And there seems to be absolutely no necessity for the authorities to have asked for this aeroplane to drop bombs not merely there but in adjoining villages and it can only be considered to be revengeful? Various issues of the *Civil and Military Gazette* of that date show that the mob were dispersing. General Hodson says. How was the officer commanding to know whether the mob was dispersing or not? Of course if the civil authorities had given the military authorities the necessary sanction, I would not blame the military authorities. They have to support the civil authorities and their action might be justified. But, I think, the civil authorities do not give any explanation as to why they allowed the use of bombs or whether they sanctioned their use. And whatever may be the merits, as regards the action of the military

authorities, the civil authorities cannot be exonerated in respect of this action. And this was done before martial law was proclaimed, so that the action of the officers who shot down people in Amritsar and Lahore and the action at the Jallianwala Bagh on the 13th and the action at Gujranwala before the proclamation of martial law, which was between the 15th and 17th—I speak subject to correction—would not come within the purview of this Act and within the preamble of this Act if you justly follow the procedure which has been followed in other countries by following up martial law with an Indemnity Bill. Therefore, I have to deal with this simply because the Government have asked this Council to give protection to officers who acted before martial law was proclaimed. Ordinarily they are liable to be brought before the courts, the civil and military authorities would be liable to be brought before the civil Courts, and I do not know whether on previous occasions protection has been given—I am speaking subject to correction—but at any rate the preamble does not justify it. Now the action of the authorities in dropping bombs, if that is true, is a matter which I think cannot and ought not to be brought within the purview of this Act. The answer of the Hon'ble the Home Member may be 'Yes, but why argue this. We say if it is not done *bona fide* and in a reasonable belief to produce a particular result, the officers will be condemned by the Courts, we do not protect them.' But, my Lord, if the whole transaction from start to finish proceeds upon the basis that British officers are justified in humiliating the Indian public and in the employment of any means that may be necessary to bring about the desired result, if we accept that theory, what justification have we in allowing any British officer to be punished? Therefore, we shall have to make up our minds as to that at the outset. Assuming that that was the belief of British officers, or of Indian officers for the matter of that, or of the Government for the matter of that, assuming that they felt that any humiliating action is justified, any drastic action is justified, in order to bring about the result, then all we can say is that we shall have nothing to do with the Bill. We can never subscribe to that doctrine. I argue simply because I believe that the Government would not subscribe to that doctrine, British officers would not subscribe to that doctrine and no Britisher would subscribe to that doctrine.

"Then, my Lord, we find that there were incidents on the 11th, 12th, 15th, 16th, 17th, and so on. May I say in this connection, my Lord, that I believe that the attempt to humiliate the educated classes has been indirectly responsible for these unhappy events. There is no going away from that point. Sir Michael O'Dwyer has told us, and in distinct terms, on more than one occasion that he did not believe in these mild methods, that he did not believe that the country is in a fit state for the introduction of any reforms on a reasonable scale. He has told us that the educated Indian is really a menace to the British Government."

The Hon'ble Mr. W. M. Hailey — "May I rise to a point of order?"

The Hon'ble Rao Bahadur B. N. Sarma :— I beg the pardon of the Council for using that. I meant a section of the educated community is really a menace to the British Government "

The Hon'ble Mr W. M. Hailey :— My Lord I merely rose to a point of order. I desired to obtain some verification for the statement which the Hon'ble Mr Sarma has made. He has now corrected it "

The Hon'ble Rao Bahadur B. N. Sarma :— I think the speeches of Sir Michael O'Dwyer—I am not accusing him of dishonesty. I only mention his view, his honest view of what is right and proper—show that he thought that a section of the educated Indian public was pursuing a career which was ruinous to the Government as well as to the country and there was no love lost between the Indian Press and himself. Bearing these facts in mind and bearing in mind the fact that the Commissioners in their judgments looked upon various acts of these educated men as having brought about these results, there was nothing surprising in the action which was taken by the Punjab Government against various educated men, leaders in various cities, vakils and others, in handcuffing them and subjecting them to trial and punishment. There is nothing surprising in that. They may be justified in doing it, but I am bringing this out to show that that led to a storm of indignation throughout the province. If at a crisis like that the Government chooses to shoot down the mob, the Government chooses to punish all educated Indians to humiliate them, to make every educated Indian *salaam* a European to make them crawl on their bellies, I ask, my Lord, has not that very action produced the results which were meant to be remedied? Therefore here is an explanation, not a justification, for the action of the mob or for the action of the educated classes. If they went wrong throughout the Punjab there was a very good explanation for the occurrences. But, my Lord, it is not necessary to go at any greater length into what occurred in the Punjab, except by way of supporting my proposition that the whole of India feels that she has been disgraced. That is the feeling my Lord, and I hope the Government will try to assuage that feeling and show that it is unjustified. Unfortunately the whole of India feels that the Indian public have been grossly insulted by the action of the authorities in the Punjab. Well, there may be some who are sceptical on the point, but, turning to the statement of trials by summary courts and area officers, in the districts of Lahore, Amritsar, Gujranwala, Gujrat and Lyallpur I find a number of cases in which men have been whipped for not *salaaming* European officers. Well, take that for granted that it might have been done in a reasonable belief to teach the Indians a lesson. That is not the question at issue. The order should not discriminate between Indian and Indian because we are living in democratic times. But there was nothing to prevent the troops from whipping a High Court Judge for disobeying this order and refusing to *salaam* a European. Is it, therefore, wrong on the part of the Indian public to deeply resent this action of the authorities as being wholly unjustified, and as the Govern-

ment of India ask us to ratify the convictions based upon such grossly uncivilized methods? That is the point at issue, my Lord. If the Government say that these convictions would be set at naught, that the men would be released, then it might be quite a different thing. But we are asked by the Government of India to ratify the convictions of these men who have suffered gross indignity for opposing an illegal and inhuman ordinance passed by the military authorities. I therefore submit, my Lord, that as the Bill stands, it is self-condemned. We appeal to the moral convictions, of course we know perfectly well that legalities have not much force and validity in troublous times, but all authorities in England and elsewhere are agreed on this point, that moral considerations must prevail, that the officers who seek protection must appeal to morality and to say that they have behaved as humanly and in as civilized a manner as possible. I submit, my Lord, on behalf of the Indian public that it is impossible for them to ratify and sanction these convictions, if they have a spark of self-respect in them, if they have anything worth considering in them. I have already alluded to the fact, my Lord, that it is impossible, having regard to the events at Jallianwalla Bagh and elsewhere, to raise the presumption in the manner in which it is sought to raise it. I pray that the Government will deal only with cases which took place after the martial law ordinances were issued. Then that would exclude from the purview of our consideration a large number of actions which have to stand on their merits under the common law of the land. If they are to be brought in on the ground that the essence of martial law is a necessity and that those people are entitled to protection, then I humbly pray, my Lord, that the onus of having acted in good faith and in a reasonable manner should be laid upon them. I also ask, my Lord, as to why there is in this clause the phrase 'reasonable belief that those measures are necessary for the purpose of maintaining order, etc.,' in addition to the words '*bona fide*'? Hon'ble Members will see that it would be extremely difficult, if not impossible, for any plaintiff or any prosecutor to show that the officers who were concerned in the discharge of these duties did not believe them to be necessary. That would be an impossible position to take up. The only point would be as to whether they were reasonable in believing them to be necessary. But if it is the sentiment of the British public as voiced loudly by several European papers that they are very sorry that Sir Edward Maclagan should have pursued this clemency policy which is likely to mar all the good work done by his distinguished predecessor, when we see that that is the atmosphere, if I would think that this was the mentality at the time, that this was the atmosphere at the time, then I say, my Lord, it is necessary that we should carefully consider what they might consider to have been a reasonable belief that their actions were justified by necessity. But we, my Lord, as legislators, find absolute difficulty in ratifying any action which is based upon ideas of revenge, reprisals or upon methods which should not be pursued, which are acknowledged should not be pursued. That is my real difficulty. My real difficulty is not that I am unwilling to protect officers, even though the martial law proclamation and orders were wrong—

even assuming that I am prepared to protect the officers, but not all officers who have acted in particular ways.

I have only a few words to add with reference to clause 4 and that is this. Hon'ble members will find that these summary courts were established or have acted in exercise of powers granted to them by Ordinance IV The Ordinance, my Lord gives these tribunals power to deal with any offences whether they were connected with these troubles or not, any offences which occurred after the 30th March in accordance with the law of the land, but I suppose following the procedure of Ordinance No. I of 1909 as far as may be

The Hon'ble Sir George Lowndes :—"I think the Hon'ble Member has made a verbal slip; that Ordinance has nothing whatever to do with summary courts; it deals only with commissions."

The Hon'ble Rao Bahadur B N Sarma :— Or rather courts which were empowered to deal with cases just as summary courts martial are empowered to do

The Hon'ble Sir George Lowndes :— The Hon'ble member is, I think mixing up two different things. Commissions were appointed under the first Ordinance, and under Ordinance No. 4 the Commissions were entitled to try these persons. In addition there were summary courts appointed by the martial law authorities."

The Hon'ble Rao Bahadur B. N. Sarma :— "I shall be glad to proceed upon the footing that these courts should have followed the ordinary procedure and should have dealt with these cases and have ordered those punishments which are awardable under Law. I have made a mistake. It is true that under the first Ordinance the Commission shall have all the powers of a general court martial under the Indian Army Act, and shall, subject to the provisions of this Ordinance in all matters, follow so far as may be the procedure regulating trials by such courts-martial prescribed under the said Act. Provided that where in the opinion of the convening authority a summary trial is necessary in the interest of the public safety such authority may direct that the Commission shall follow the procedure prescribed for a summary general court martial by or under the said Act, and the Commission shall, so far as may be and subject to the provisions of this Ordinance, follow such procedure accordingly. Provided further that sections 78, 80 and 82 of the said Act shall not apply to any trial under the Ordinance. Then this is the other Ordinance which I was referring to. This Ordinance may be called the Martial Law (Further Extension) Ordinance, 1919. I shall be glad to hold the other view notwithstanding anything contained in the Martial Law Ordinance I of 1919. The Local Government may by general or special order direct that any commission appointed under the said Ordinance shall try any person

charged with an offence committed on or after the 30th March 1919. There is no limitation there. Thereupon the provisions of the said Ordinance shall apply to such trials accordingly and the Commission may pass in respect of any such offence any sentence authorised by law. I think, therefore, that it was competent to the officers who dealt with cases under this Ordinance to follow the procedure that was prescribed in Ordinance No. 1. Even in respect of trials which did not fall within Ordinance No. 1 but were matters under the Penal Code or which were taken up by the convening authority before these tribunals. However, that is a matter which I shall leave now. Hon'ble members turning to this statement will find that a very large number of convictions in accordance with this Ordinance were passed towards the end of April, the beginning of May, June and July. This was dated the 21st April when according to the Press Communiqué order had been restored and everything was quiet, barring a few incidents here and there. I do not say that there was no fear of recurrence of these events, that is unnecessary for my argument, but the Press Communiqués that were issued would show clearly. I will take one.

"I take one. On the 22nd of April the following Press Communiqué was issued: 'Situation seems to be well in hand. Disturbances except the cutting of telegraph wires.' I am not going to argue that reports of disorders were not coming in, it is unnecessary to argue the point, there may have been disturbances, but all I can say is that the disturbances had been quelled by the 30th. My point is that martial law cannot be invoked and should not have been invoked after the 21st of April for the purpose of administering justice for the further prosecution of measures of Government—we are not concerned with them. My submission is that on the 21st or 22nd of April the ordinary courts should have been allowed to proceed. It may be said that if that were done it would not have been possible to get through the work expeditiously. There was nothing to prevent Government from appointing additional tribunals to deal with the offenders. I take strong exception to the ordinary safeguards which are open to the public being removed by executive action in a time of peace."

The Hon'ble Mr. J. P. Thompson—"My Lord, in the absence of Mr. Hailey, may I explain for the Hon'ble member's information that disturbances were not over by the 20th of April? There were several cases of cutting of telegraph wires."

The President—"Order, order. The Hon'ble member may rise to a point of order or for a personal explanation, and if Mr. Hailey is not here, Sir William Vincent who has yet to speak, can reply to the point."

The Hon'ble Rao Bahadur B. N. Sarma—"Subject to correction I should like to say that though these disturbances continued till May or June there was no justification for the continuance of martial law. It was not necessary."

for a sporadic disturbance. According to all constitutional writers this rebellion which I am assuming for the sake of argument would justify martial law coming to an end by the 1st or 2nd of April. Therefore we need not ratify the action of the Executive Government in introducing a new procedure in removing the normal safeguard to which British Indian subjects of His Majesty are entitled. My submission is that the ordinary tribunals and normal procedure should have been followed. The judgments show that the normal procedure was not followed. There were 236 offences tried and my submission is that we as a legislature would not be justified in ratifying and validating all these convictions and sentences. Sir William Vincent had a very powerful argument in support of his position when he said that the Government of the Punjab felt that if these convictions are not upheld and if the men are let loose there will be no safety. Another argument was that if these men were tried over again this would lead to great public expense. My Lord there is no escape from that. I do not want any man rightly convicted to escape but Government could put these men on their trial in the ordinary court and the public peace will not then be disturbed people will have confidence that whatever may have been done in a time of panic, if done honestly and *bona fide* Government rightly recognise any injustice that may have been committed and therefore will follow the normal procedure. Let the men be tried under the usual procedure, with the usual safeguards, a certain amount of money may have to be spent but it would be usefully spent. There is no difficulty in the way of accepting the suggestion that has been thrown out that two High Court Judges, or ten High Court Judges should go into these sentences. My Lord, unless the Judges see the statements made by witnesses which have been recorded I cannot see how the Judges are to deal with all the cases. I am sure where the records are full, it will be competent for the Judges to set aside these convictions or advise the Government of India to do so. But where we have only pencil notes or no notes of evidence or where the evidence is meagre, my submission is the Judges will not be able to remedy matters, in some instances at least, inasmuch as we know a record has not been kept. It is impossible for the Government of India to inspire public confidence, and I feel it would be well for the Government not to press for clause 4 asking us to ratify whatever has been done under martial law by these tribunals. My Lord a word I think is necessary from me in addition to what the Hon'ble Mr. Sinha said in reference to what fell from Mr. Malaviya. I have asked for certain information to be given and for the publication of certain correspondence. The Government felt very rightly that the public interests this should not be disclosed. I cannot help thinking that in the interests of the public it should be disclosed, so that both the parties may be ready for the tribunal. I think it would be well if both parties should state their case so that the truth may come out; on the other hand, the view of Government may be justified on various points and the other people would not press it so both parties would come prepared. In the absence of that information and inasmuch as there is an uneasy feeling in certain

sections, it was the duty of the Hon'ble Mr Malaviya to bring forward the grievances of the people. This duty he has discharged, and we are grateful to him for it. I maintain that in regard to the statements made, no one would have been more happy than many of us if these facts were untrue. But beyond one or two statements of officials, namely, whether a C I D officer had been murdered or European officials suffered some injury, I do not think there was any reply worth mentioning, but beyond one or two statements of an inconsequential nature, namely, as to whether a C I D officer was insulted and as to whether particular European officers did not receive injury, I do not think on essential points there was any reply worth mentioning. That is a question, I suppose, of difference of opinion amongst the Council, but at any rate some of those points were not answered.

“Then, my Lord, ridicule is properly applicable to show up a man who makes pretensions which are absolutely unjustifiable. That is a perfectly legitimate weapon, but what was the occasion for the use of the strong language, that was employed in regard to the Hon'ble Pandit Malaviya? The Hon'ble Pandit has kindly shown me the correspondence, and we find that, unless the Hon'ble Mr Thompson made a personal inquiry into the question of a corpse that was found in the well, which has absolutely no political aspect, it is rather difficult to say who is in the wrong. The people think that the administrators of this land lend a ready ear to those who always flatter them, to the police and to other officials. That is the trouble. Now the Hon'ble Mr Thompson takes up the position of a Municipal Commissioner and tells us that 12 or 13 others went to the well and found nothing and 8 days afterwards they found a corpse. Meanwhile, it would not have been possible for that corpse to have been removed. As a matter of fact even the Commissioners seem to have taken the pains to see what was there. I only allude to this to show, my Lord, that on such scanty materials Hon'ble Members of this Council do not deserve attack and they require protection. Of course the protection is both ways, but, I think, my Lord, the Hon'ble Members were perfectly right.

“My Lord, I have tried my level best to see whether I could support this Bill. I have some difficulties along with the Government in pressing for a complete postponement of this measure. It is true that the officials have to be protected. I agree with Sir Sivaswami Iyer that it is incumbent upon the Government to bring in a Bill by way of a temporary measure to safeguard the interests of the officers who were employed in the work and protect them pending the result of an inquiry, before Government makes up its mind as to how best to deal with these officers. That, no reasonable man can object to. But, my Lord, notwithstanding some safeguards, there is great danger in giving undue protection to these officers, some of whom do not at least deserve any protection, having regard to the events which have transpired. The offi

cern my Lord were very anxious that their doing should not be known to the public. They shut out the general public from the Punjab; the Indian press in the Punjab was muzzled. Even Mr. Andrews who wanted to go here was prohibited. Under those circumstances, is it strange in our saying 'they should wait patiently until the general public has had an opportunity of judging as to what has actually transpired? The officers did not want to take the public into their confidence and therefore it is not unreasonable for us to ask that this measure should be postponed until the Committee of Inquiry has submitted its report; but I do not do even that I ask the Government to give them temporary protection. But I cannot see my way either to ratify all these convictions and sentences or to give complete protection irrespective of the inquiry to every officer even subject to the safeguards mentioned."

The Hon'ble Sir George Lowndes — My Lord this has been a day of telegrams and I should like to add my quota. I have received as I am sure I ought to inform the Council a telegram from the Wardha Home Rule League protesting against the introduction of this Bill. I have no doubt that this protest will meet with the consideration it deserves in this Council. The Hon'ble Pandit also referred to and read out a telegram from the Indian Association of Lahore. Members of this Government have also received the same telegram but in their case it has not been signed and it would be interesting if the Hon'ble Pandit could let us know by whom his copy is signed. The Secretary of that Association I understand is now confined in one of His Majesty's jails and, I think, we ought to know who has signed it on his behalf — *(after a pause)* I do not think I need wait till the Hon'ble Pandit

The Hon'ble Pandit Madan Mohan Malaviya:— Perhaps I have given it to the reporters. So far as I can remember it was not signed, but I am sure it was signed. I can say my Lord that the Indian Association is an Association of long standing in Lahore. *(After a pause)*. I have just got the original telegram. I had it in my pocket, I thought I had given it to the reporters and it had not come. The telegram is not signed."

The Hon'ble Sir George Lowndes — My Lord I begin my remarks by saying that I regret very deeply the events which have happened in the Punjab and in other parts of India. No one deplotes more than I do the loss of life both Indian and European which has occurred and I would add no one deplotes more than I do that it is in most cases the dupes who have suffered and the agitators behind them who have escaped. But my object in rising at this hour in Council is not so much to press my regret though I am glad to take the opportunity of doing so but to deal honestly as I can with the constitutional position of martial law in our polity in India.

" And I doubt if, with all that has been said, the real position has been explained to the Council. The Hon'ble Pandit, I think it was, on a previous occasion contented himself with saying, as has been repeated to day, that martial law is the negation of law. But an epigram like that never can contain more than a germ of the truth, and it was hardly sufficient for the Hon'ble Pandit and other lawyers who have followed him to dismiss the whole subject of martial law as summed up in that short epigram. There is a great deal more behind it, which it is essential that we should consider in connection with this bill. No doubt it is true in one sense that martial law is the negation of law, but in every civilized country in the world it steps into the place of the civil law when occasion requires. It is not only in our own Empire and in our own history that martial law has a definite place. It will be found in the constitution of pretty well every continental country of Europe. It is especially provided for in the French constitution and is there known as a 'state of seige,'—I am translating of course. It can be declared, in France, by the President on the advice of his Ministers if the Chamber is not sitting. In our own constitution it has been known from the very earliest days. But before I come to the historical side, which I shall deal with—as shortly as I can—I think I should explain the basis of it. The law of which it is said to be the negation is the thing that provides for normal conditions, but for normal conditions only. Abnormal conditions are left to be met by extraordinary measures. The Code of Criminal Procedure in this country provides for police measures to deal with riots. If they get beyond the police, the police can call in the military to their aid, but it is still the civil arm which is dealing with what has occurred, and the military are called in to their aid only. If matters go beyond this, charge must be taken completely by the military. The law does not attempt to provide further than that. Abnormal conditions have now arisen, and the enforcement of law and order is, and has to be, handed over to those who can do it by force of arms. The line, I think Hon'ble Members will agree, between riot and insurrection and revolution is a very thin one in every case. What is a riot this morning may be an insurrection this afternoon, and a revolution to-morrow. If you are unable to put it down at the outset, you may find that a fire has been lighted which all the fire-engines of the country cannot extinguish. It is that thin line which is the difficulty in all such cases. There is the line first of all between disturbances which the police can quell by themselves, and others for which they must call in the aid of the military, and there is the line between what the police aided by the military can deal with, and the situation that must be handed over entirely to the military arm. Once that last line is overstepped, it is no longer a mere riot, conditions are no longer normal, it is a case for what we have called martial law, that the name is a convenient one and no more, I quite agree. It arises only when the civil arm is no longer able to maintain order. That is why it is a negation of the civil law, it is a negation of the law because the law has failed, and for no other reason. Whatever we may like to call it, a rebellion or an insurrection,—whatever politicians in

this country may like to call it— we have to deal with the facts not with the words we use to describe them. The question we have to consider here is, whether at the time when martial law was put in force in India the situation was such that the civil authorities were unable to cope with it. Therefore let us not quarrel over words or discuss the difference between rebellion in surrection and revolution. The practical question before the Council is, whether there had arisen in the Punjab at this time a state of things with which the civil authorities were unable to deal. We have been told in this Council that no such state of things existed. I would much rather have left the question where my Hon'ble friend, Sir William Vincent, left it in his opening speech, not discussing whether it was necessary to proclaim martial law but leaving that to be considered by the Commission. I would rather merely assume that martial law was declared for as my Hon'ble colleague put it, it follows essentially from that that there must be an act of indemnification and validation. Some Hon'ble Members, led by that redoubtable champion of the liberties of the people, who is still sitting here after his temporary disappearance thought fit to go into all the happenings, for what purpose I frankly say I cannot conceive. What this Bill proposes is that only acts which were done *bona fide* and which were believed to be reasonably necessary for the restoration or maintenance of order are to be the subject of indemnification, or validated in part, nothing else. The Hon'ble Pandit spent some hours telling us of a number of acts that would not be covered by the Act. He went through the whole history of what had happened in his own way recounting to us a great number of things which he told us could not have been *bona fide* which could not have been necessary and therefore if I may say so, would not have been touched by this Act. What was his object, I repeat, I cannot conceive unless possibly the time has come when it may be necessary for the Hon'ble Member again to seek re-election and we may consider this as an election speech in which, *pace* Mr Sinha, terminological inexactitudes are often thought to be excusable. But it was not only the Hon'ble Pandit, but other Hon'ble Members have taken up definitely the position that there was never any situation (I am not attempting to put it in their own words) with which the civil law could not have coped. We began the other day with my Hon'ble friend Raja Sir Rampal Singh whose absence I greatly regret to-day for I dislike criticising anyone in his absence, but he has, I may presume thought it wise to beat a strategic retreat. The Hon'ble Raja Sir Rampal Singh, coming from the fastnesses of his ancestral castle in Oudh said there was no rebellion no insurrection—only a few little disturbances! Of course, sitting at home in safety it was quite easy for him to say to himself there is no fire going on; there is no trouble! If you are a long way away and your house is not in danger of the conflagration it is easy to take up this attitude. I strongly suspect that my Hon'ble friend from Oudh did not want to see the fire and I suggest that the most charitable way of looking at his speech is that it was written for him by a friend.

"I have a very hostile friend Mr. Assumpção who indeed is present, but I do not feel able to make cognisance of my words at the moment. Mr. Assumpção's attitude of far Madras, he tells us again, that the Government of Madras was wrong on it all. I think the Government of Madras was only a few rash men who were not to be trusted."

"Then I am sorry my Hon'ble friend Mr. Chanda has put it in the Council, that there was no rebellion there, nothing that the Government had to do. And where does the Hon'ble Mr. Chanda come from? Assam? He has come from the confines of India to say there were no disturbances in the Punjab. Can nobody tell us any better than he? Are there no members here who belong to the Punjab, who have been in the middle of these disturbances, who know what happened, who have seen what happened? There are surely many of them in this Council, but if anyone of them told us that there was no rebellion in the Punjab, that there was nothing that could not be put down by the civil arm? Is it not an extraordinary fact that to find support for the opposite view you have to go to a member from Assam, a member from Madras—I am glad I do not have to speak in the plural of Madras—a member from the fastnesses of Oudh and, if I may say so, the self-constituted Special Commissioners from the United Provinces. Now, if other members of the services who sit here had not replied in detail to what I do not hesitate to call the monstrous statements of the Hon'ble Pandit, I should have taken some pains to reply to them in detail, but it is not necessary for me to do so now. Let me come now to the speeches of my Hon'ble friend Mr. Sarma and of my Hon'ble friend Mr. Sinha, who seems to think that we come here to talk about martial law and the doings in the Punjab with kid gloves on our tongues. I do not. Let us all say what we think. I shall not blame any Hon'ble Member who says what he really thinks, and surely in this Council I am entitled to say what I really think. But I will only say that the speech of my Hon'ble friend the Pandit was characterised by certain terminological inexactitudes, a phrase which has, I believe, parliamentary sanction. I have said that no member from the Punjab has come here to tell us that there was not a rebellion in the Punjab, I only use that word for convenience. But is there no one else to whom I can appeal who, at all events, does not bear the ticket of Government upon his back? I seem to remember one Horniman as somewhat of an ally of the party which the Hon'ble Pandit, I believe, now leads. I have some recollection of a letter of his published in the newspapers. It did not seem to accord with the view which is taken by his lieutenant now. I have got the words here—the expression used by Mr. Horniman of *Bombay Chronicle* fame, if I mistake not, was 'the recent deplorable revolutionary outbreaks'. Then there was another stout ally, a former ally at all events of that same party, Mrs. Annie Besant, I am sure many Hon'ble Members in this Council will remember the words of wisdom that fell from her with regard

to the situation in the Punjab. Let me remind them I quote from her letter in the *Times of India* of the 10th of April 1919:—

I ventured to urge before this movement was started that its logical result was riot and bloodshed and to point to the danger of a revolutionary movement here. Surely what had happened in Europe was warning enough and I even noted the elements here on which Bolshevik propaganda might work. Are there not in the Punjab signs of such a movement? The cutting of telegraph wires, the derailing of troop trains, the burning of railway stations, the attacks on banks, the setting free of jail birds, are not the actions of *Satyagrahis* nor even of casual rioters but of revolutionaries.

I understand that Mrs. Annie Besant has now been disowned as an ally of the party over which my Hon'ble friend the Pandit, now presides with such skill but those were words coming from the very party of which the Hon'ble Pandit is now the lieutenant and I doubt if there is any Member of this Council who if the proposition is put in the way I have put it namely whether there was a situation with which the civil arm was unable to cope could do otherwise than admit the fact.

Let us get so far in the argument. Now the next question that arises—I am dealing largely with theory now—is, is it or is it not the duty of every stable Government to maintain law and order in the country? I might go a little far there and say is it not the first duty of every stable Government to do this? There again I think that even the Hon'ble Pandit will not venture to answer me in the negative. If it is so, if it is the first duty of Government to maintain the public peace, if that is accepted, does it not follow essentially from that that the Government must have the power to do so? If it is necessary to go beyond what I call the civil arm and invoke the direct intervention of the military the situation is that which we describe as martial law. If it is the duty of Government to do that do not Hon'ble Members think that it must follow that Government has the right to do it, and that there must be some sanction behind it? Writers on Constitutional Law have always struggled to find the sanction for martial law. There are three schools of thought which have existed in the past. The first school of thought, which has very much behind it historically asserts that it is in the inherent power of the Crown to proclaim martial law. Let me not be misunderstood. I mean that if it is in the power of the Crown to put martial law in force then the municipal courts are unable to take cognizance of cases arising out of it, because what has been done has been by the prerogative of the Crown. I say there is a great deal historically in favor of that view. I do not wish to trouble the Council at length with this, but I think it might interest Members to hear what such a great man as Pitt said in introducing the second Irish Indemnity Bill. He said:— The Bill which I

things which it connotes, that I may say if we have statutory power to establish martial law that makes legal *ipso facto* every act which can be justified by martial law. We in India therefore are in the position of having statutory power to proclaim martial law though it none the less leads us to resort to indemnity. But martial law has not been enforced under the Statute in all districts. It has been enforced under the inherent power in other places. I need only refer to the case of Bombay which is probably not covered by the Bengal Regulation. But notwithstanding that we have statutory power to put martial law into force in some parts of India, it is none the less necessary for the reasons I have already given, to have an Indemnifying and Validation Bill. This if I may say so, is agreed to by every sensible Member of this Council. The only argument I have heard against it is that of the Members who said that there were no serious disturbances in the Punjab and of those who said,

By all means let us have an Indemnity Bill but not to-day. Well that it is necessary to have some Indemnity Act is beyond question. I will tell the Council in a moment what a length of precedent there is for it. But apart from its being strictly constitutional I should like to put the question very plainly indeed to some of my Hon'ble friends in this Council, and I would appeal especially to my Hon'ble friend the Maharaja of Kumbharwar whose speech indicated a somewhat hesitating acceptance of the proposal now before this Council. Do you or do you not want to be protected in your lives and property whatever may happen in India? Do you wish the Government to do what I have spoken of as the first duty of the Government, namely to protect your life and property? And that if they cannot do it through the Police do you wish them to do it by the use of the Military? Let us have a plain answer to that question from anyone who is not prepared to agree to a Validating Bill. If you do not want it, tell the Government you do not want and the Government will not do it. Let me tell you this that if this Council will not indemnify the soldiers who had to enforce martial law in order to preserve the public peace they will not willingly do it again. You cannot place these unpleasant duties on your officers and at the same time leave them as Mr Chanda suggests, at the mercy of the Courts. That is not the way to treat officers whom you have asked to protect your lives and property. You have got to indemnify them at the earliest possible opportunity and unless, I say you do that they cannot be asked to take any risks in protecting you. Why should they? Why should a man in order to protect your life and property or to protect my life and property or anyone else's, do that which he knows may subject him to the direst penalties of the law? Remember when we talk of indemnifying officers, it is not the high officers of Government that you are asked to indemnify. It was the Gurkha soldiers who fired on the mob and, may be, killed people; it is the Indian soldiers and Indian officers whom you are asked to indemnify just as much as the British officers. Every soldier who fires according to orders and, may be, kills a person may be liable under the common law of the country to be indicted for murder. If my property is in danger or my life is in danger

from a mob, whether it be in Amritsar, Delhi or Lahore, can I ask the soldiers to fire upon the mob to protect me if I am not prepared to back them up afterwards by an Indemnity Act at the earliest possible opportunity? Surely not. Let Hon'ble Members come out into the open, let them say that they do not want to be protected, let them do what the Hon'ble Pandit suggested, constitute among themselves a body of watch and ward, let us get rid of the police

The Hon'ble Pandit Madan Mohan Malaviya —“ We do not want our lives to be protected at the expense of others ”

The President —“ Order, order. The Hon'ble Member has had his say ”

The Hon'ble Sir George Lowndes —“ I thank the Hon'ble Pandit. It reminds me of a statement once made by one of the most eminent Judges in India to counsel who protested against being interrupted. He said, do not worry, Mr. So and so, an interruption always shows me where the shoe pinches

(The Hon'ble Mr. Malaviya here rose to interject a remark)

The President —“ The Hon'ble Member has for a long time been a Member of this Council and knows perfectly well what order means. I must ask him to observe order ”

The Hon'ble Sir George Lowndes —“ It may interest the Council to hear that I had the curiosity to have looked up in our reports the number of interruptions recorded in this Council during the whole of last year. The total was 51. Of these, the Hon'ble Pandit was responsible for 29. It appears to me that he has had rather more than his due share.

“ Now, I say if you want officers of Government and soldiers under their orders to protect the lives and property of people, you must be prepared to indemnify them. I say it is necessary, and in accordance with common sense, and that it is in accordance with the practice of hundreds of years in this great Empire to which we have the honour to belong. The limits are perfectly well understood. The limits within which indemnity will be given are the limits of good faith and doing that which is reasonably necessary .

“ They are clearly laid down in every book on Constitutional Law. We are not asking Hon'ble Members in this Council to go beyond that. I shall show in a moment that we are not asking them to go nearly so far as has been done in some cases. If Hon'ble Members will look back to constitutional history, they will note that in the earliest days the turbulent Barons were controlled by martial law.

“ In Wat Tyler's rebellion in the time of Richard II, martial law was put in force, and though it was directly contrary to the terms of the Magna Charta, men who had taken part in that rebellion were tried by court martial or even

put to death without any legal form of trial at all. Coming on to later times we find martial law again put in force in Jack Cade's insurrection in Henry VI's reign. I do not want to go back for a precedent to ancient days. I only want to make it quite clear to the Council that the enforcement of martial law has been a part of the British constitution from the very beginnings from Norman times through Tudor times, down to the days of the Hanoverian House and on to the present day.

When we come to the Georges, the questions involved are probably more important as we get the Acts which have already been referred to. I do not propose to refer to them in any detail except to correct certain inaccuracies which have crept into the Hon'ble Pandit's arguments with regard to them. We have first of all the 1713 Act to which my friend the Hon'ble Pandit referred. I regret to have to refer to it again but with almost characteristic inexactitude the Hon'ble Pandit only read from the preamble of the Act and forgot to read the operative part of the Act. He told us that the Act did not do what as a matter of fact it does. One cannot always, I am afraid, collate from the preamble to an Act what is enacted by it. But let me read on after the long preamble—the enacting part is there. The only part which the Hon'ble Pandit did not read as far as I remember was this: All personal actions, *&c.*, for anything done in order to suppress the rebellion in 1716, shall be discharged. And if commenced again the person sued may plead the General Issue *&c.*, Double Costs. But the preamble was the only part in which the Hon'ble Pandit was interested because he preferred to

The Hon'ble Pandit Madan Mohan Malaviya — May I rise to a point of order?"

The President — On a point of order

The Hon'ble Pandit Madan Mohan Malaviya:— I want to explain that I was arguing on the preamble and it was not necessary for me to read the whole of the Act."

The Hon'ble Sir George Lowndes — Neither necessary my Lord, nor advisable for my Hon'ble friend's arguments.

I do not think I need say anything more about this. Hon'ble Members have heard the Act read, apart from the operative part, by my Hon'ble friend the Pandit.

Next we come to the 1745 Act, and there again the Hon'ble Pandit's researches did not go far enough. The Hon'ble Pandit referred to 10, George III Chapter XX which was an Indemnity Act, and which was passed after the disturbances, but he apparently did not find out that before the rebellion began Parliament passed another Statute authorising martial law being put in force. Therefore, they began before the Pretender's invasion by authorising the

putting in force of martial law, &c., you have got curiously enough, almost the same position which we have in India now, that is to say, they were allowed by Statute to establish martial law, as we are here, yet after it was all over they proceeded to indemnify by the Statute to which the Hon'ble Pandit referred. The Indemnity Act of 1745 is practically in the same terms as the one of 1715. The Hon'ble Pandit put forward a tentative argument with regard to these Acts that they can be no model for us because they were dealing with invasions from outside, 'rebellions' in what may be called the technical sense. He suggested that that was quite a different case. There, he said, 8,000 Scotsmen flocked to the Pretender's flag and there was a regular war. But I am afraid that argument is destroyed entirely by the next Act of 1780 which dealt with the Gordon riots,—as the Gordon riots were nothing in the world if not a purely internal disturbance. My Hon'ble friend, Mr. Hailey, reminded you of their history,—most Members of this Council will no doubt remember the story in 'Barnaby Rudge,' it was hardly more than a riot, but a riot in the morning which might have been a rebellion in the afternoon, and it had to be dealt with by martial law. In that case there was, I believe, no statutory power given to proclaim martial law, but, afterwards, Parliament granted an indemnity in respect of all the acts that were done. I may perhaps read from the Act of 1780 again. It is very interesting, because it shows how far Parliament went. After the part the Hon'ble Pandit cited, namely —'Divers Acts which cannot be justified by the strict Forms of Law, and yet were necessary'—that is the part the Hon'ble Pandit read—it goes on 'That All Personal Actions and Suits, Indictments and Informations, which have been, or shall be, commenced or prosecuted, and all Molestations, Prosecutions, Proceedings whatsoever, and Judgments thereupon (if any be), against the said Magistrates, or other Persons for, or by reason of any Act, Matter or Thing commanded or done on the Occasions, and for the Purposes aforesaid, or any of them before the twentieth day of June, one thousand seven hundred and eighty, shall be discharged and made void, and every Person, by whom any such Act, Matter or Thing, which shall have been commanded or done, before the said twenty fourth Day of June, one thousand seven hundred and eighty, shall be freed, acquitted and indemnified, as well against the King's Majesty'

"It will be seen that the Hon'ble Pandit was again somewhat inaccurate in saying that it had only a very limited application. It may seem so if you read only the preamble, but if you read the operative part of the Act, it indemnifies and makes good every act done by every person for the suppression of that rebellion.

"Well, let me continue the history as shortly as I can. We come next to the Irish trouble in 1798, which resulted in what is often called the Battle of Vinegar Hill.

"There, again, they not only had the Indemnity Act, 41 George III, C. 104, but Parliament gave before hand power under Act 39, Geo. III, C. 11, to enforce

martial law. So, again the position was almost exactly what we have here. First of all, the power given by the Legislature to put martial law in force and secondly the indemnity for anything done under it. It is in connection with the 1798 rebellion in Ireland that the case of Wright and Fitzgerald arose. I think the Hon'ble Pandit referred to it or at all events to the summing up of Mr Justice Chamberlayne. It is a typical and illustrative case and I think the Council may like to know just a little bit more about it. Fitzgerald was a High Sheriff and Wright as the Hon'ble Pandit told us, was a school master. Fitzgerald ordered Wright, at any rate according to the allegation to be flogged with 500 stripes (they did not do things by half measures in those days), and he was flogged, and, according to the evidence flogged in Fitzgerald's presence under the most harrowing circumstances, circumstances, I may say almost as harrowing as those which the Hon'ble Pandit, with such oratorical effect, described to us yesterday. The Judge summed up, as the Hon'ble Pandit has told the Council, there was a sympathetic Irish jury and he was awarded £500 damages. The Hon'ble Pandit did not care to read any farther than that. If he had looked on a little further he would have seen that the case went on to the Court of Exchequer and was quashed and Fitzgerald the High Sheriff got his full costs. Therefore, the end was not quite where the Hon'ble Pandit left it. So much for Vinegar Hill and Wright and Fitzgerald.

Now let us pass on to 1803. Emmett's Insurrection it is usually called. That was a case which was curiously like the present one. A mob went about in Dublin killing everybody they met who did not belong to their persuasion. In a fit of what, I suppose my Hon'ble friend Mr. Ayyangar would call rashness, or it may have been plesantry they killed the Lord Chief Justice. There was no time for Parliament to authorise the proclamation of martial law but the Government put it in force and they passed the usual Indemnity Act, 43, George III, C. 117. I do not wish to speak about martial law in Ireland at this day though it is a matter which touches us very nearly. Many Members of this Council may no doubt know that Ireland is at present under martial law but they have not got to the indemnity stage yet. Let us now go to South Africa. I am only endeavouring to show the Council how entirely constitutional the putting in force of martial law is when the civil arm cannot cope with disturbances, and that in every case it is almost necessarily followed by an Indemnity Act at the earliest possible moment. In South Africa, the story begins with 1835; again in 1846, and again in 1850 martial law had to be put into effect; and in every case there was an Act of Indemnity passed by the local Legislature. The case, therefore, is in this respect nearer to our own. Then in 1900 and again in 1902 and again in 1914 in South Africa, we find martial law in force and Indemnity Acts passed which the Hon'ble Pandit has or would have referred to if he had had the books. In 1900 there was Act VI of 1900 which was a full Indemnity Act, much fuller than this one. I think perhaps I may go into the terms of it very shortly. Hon'ble Members will find that Act that very

objectionable clause which, I think, my Hon'ble friend Mr. Sinha, and, if I remember right Mr. Sinha, have referred to 'every such act, matter or thing referred to in the preceding sections shall be presumed to have been advised, commanded, ordered, directed or done, as the case may be, in good faith, until the contrary shall be proved by the party complaining.' The terms are little wider than in our Bill. By that Act they indemnified people in respect of 'any acts, matters and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary.' I draw attention to those words because, in drafting the Bill which is before the Council, we have had all these models before us, and what we have in the Bill about 'in the reasonable belief that it was necessary,' is merely a translation from the expression I have quoted which you find all through these recent South Africa Acts—I mean '*done as necessary*.' I think any lawyer will agree with me that '*done as necessary*' means done in the belief that it was necessary. But in order that there should be no doubt about it, we have thought it was better to translate it into plainer language.

"When we come to the second of the more modern South Africa Acts, we find exactly the same words, it is to be an indemnity 'for or on account of or in respect of any acts, matters and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary for the suppression of hostility and the establishment and maintenance of order.' Then, again there is exactly the same clause with regard to the presumption, 'every such act, matter or thing referred to in the preceding section shall be presumed to have been advised, commanded, ordered, directed or done, as the case may be, in good faith until the contrary is proved.'

"Let me for one moment discuss, if I can do so, the argument that has been raised on this. It has been suggested that we are doing something outrageous in providing in this Act that the onus of proving ill faith is to be on the man who alleges. But is this not the essence of our criminal law? I may be wrong in thinking so, but this is why I ventured to interrupt my Hon'ble friend Mr. Sinha, who put forward, as I thought, the suggestion that it was not for the prosecution in criminal cases to prove intent or ill faith. But, is it not the basis of the law which we have inherited from the British constitution, that you presume every man to be innocent until the contrary is proved? And does this go any further than that? At all events, it has been adopted in every modern Validation Act, and we have frankly followed on the same lines. I was asked by the Hon'ble Pandit whether I had taken the Act of 1906 for my model. I told him that the actual model was the most recent Act of all, the 1915 Act. I think probably the Council will agree with me that, so far as I am responsible for the drafting of any Bill, I follow the most recent model, and that is what I have done, though, as I said before, we have, I believe, examined every Indemnity Act we could get before we started to draft this Bill.

Now as to Act VI of 1915 of which I am glad I was able to give my copy to the Hon'ble Pandit though I am afraid rather late. It provides that every act, matter or thing referred to in sub-section (1)—the general words are in the previous section—shall be presumed to have been advised, commanded, ordered, directed or done (as the case may be) in good faith until the contrary is alleged and proved by the party complaining. We have that again. Then we have the specific provision with regard to sentences, which again I may read and I think Hon'ble Members will see that our Bill does not go nearly as far as this really.

The several courts martial and military and special tribunals constituted and convened by or on the authority of the Government or its officers during the period aforesaid for the trial and punishment of persons guilty of treasonable, seditious or rebellious conduct or of persons subject to military law shall be deemed to have been constituted in accordance with law and the several sentences pronounced by all such courts and tribunals, as well as by Magistrates' courts or other inferior courts, for any contravention of or failure to comply with, any law or statutory regulations known as martial law regulations, or any orders or instructions, given on the authority thereof, are hereby confirmed.

Hon'ble Members will notice that we have not gone as far as that in our Bill. Sub-section (2) says —

(2) Every person confined in any prison, gaol, lock up, or in any other place whatever under and by virtue of any such sentence aforesaid shall continue liable to be confined therein or elsewhere as the Minister of Justice may direct, until the expiration of such sentence or until released by the Governor General in the exercise by him of the Royal mercy or until otherwise discharged by lawful authority.

(3) Every such sentence shall be deemed to be a sentence passed by a duly and legally constituted court of the Union, and shall be carried out or otherwise dealt with in the same manner as the sentences of such a court.

Those are the material sections of the latest South African Act, and there is a great deal more in it that my Hon'ble friends will see follows largely the previous models of 1900 and 1902.

Then if I may pass away from South Africa and follow up the other cases in which martial law has been proclaimed and followed by indemnity we have the very well known case of Jamaica in 1865. A long pamphlet dealing with all that happened has been published at the *Tribune* Office, an office I think not unknown to my Hon'ble friend the Pandit and it was to me rather remarkable that he did not refer to the contents of that pamphlet in any way at all. Perhaps

we should be glad he did not or he might have been addressing the Council till now. But there was much in that pamphlet which, I am sure, gave him food for reflection. It deals with the well-known case of Governor Eyre. He executed a man called Gordon, who was believed to be the centre of the disturbance in Jamaica, outside the martial law area altogether, and executed him. An Indemnity Act was passed by the local Legislature, and then Gordon's widow came to England and prosecuted Eyre under an Act which allows Colonial Governors to be prosecuted in England, for the death of her husband, claiming damages. The case was a *cause célèbre* at the time, and allegations much like those that have been made by the Hon'ble Pandit were made with regard to the doings in Jamaica. The case came before the Grand Jury. The Grand Jury were charged by one of the greatest of Judges, and they did as they were entitled to do, as men of common sense would do presumably in such a case, they threw the indictment out and there was an end of it, they would not allow it even to be tried. There was another case to which the Hon'ble Mr. Sinha, if I remember right, referred in connection with the Jamaica riots. That was the case of Eyre and Phillips. But the sole question there was, whether Eyre the Governor was within the Indemnity or not, there was no other question concerned. My Hon'ble friend Mr Sinha has referred to the report of the case in the Queen's Bench. I should have liked to refer to the report in the Court of Exchequer, but when I asked for the book, I found that the Hon'ble Pandit had unfortunately taken it away to the farthest end of Simla. It has now been given to me, but too late for me to quote. All I need point out is, that the only question before the Court was whether this case was covered by the Indemnity Act or not, whether an Indemnity Act passed by a local Council could indemnify its own Governor because he was a party to it. I am speaking from recollection, but, I think, the Hon'ble Mr Sinha will agree that that was substantially the sole question decided in that case.

"Then let us come nearer home, to Ceylon. In Ceylon, they had martial law in 1848 and they had a local Indemnity Act there, but I am afraid I have not got it. The same thing happened in St. Vincent in 1862, martial law proclaimed and followed by an Indemnity Act. And as the Council have been told, in India, after the Mutiny, we had an Indemnity Act, Act XXXIV of 1860. It is rather material perhaps to refer to that Act because Hon'ble Members will at all events see that, in bringing this Bill before the Council, we have not gone as far as we might have. The Act of Indemnity of 1860 was in very wide terms. I need only read section 2, which is the martial one

'All acts done since the tenth day of May 1857, in connection with the late disturbances by officers of Government or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed.'

† For full text of the Act, Appendix V, pages 279—280, *ante*.

That meant that the Executive Government was made the sole arbiter as to whether a man was to be indemnified for a particular act or not. Surely we have got a good deal more liberal a measure here in that we leave it to the Courts to decide whether any act complained of was done *bona fide* and in the reasonable belief that it was necessary for the suppression of disorder.

' With regard to the question of reasonable belief which has been somewhat attacked, it may be useful to read to the Council what one of the greatest Lord Chancellors said in the House of Lords in a debate on the Gordon Riots in 1780. It appears to me very material on this point. Lord Thurlow was the Lord Chancellor at the time, and he came down from the Woolsack to address the House. Of course I am not going to read the whole speech, but only a very short passage. Hon'ble Members will remember that the Gordon Riots were purely civil disturbances. There was no case of an invasion from outside. The Gordon Riots were very similar to the present case. They were an attempt to overawe the Government and induce them to repeal the Catholic Disabilities Act which had recently been passed. The cry was 'No Popery. Repeal repeal.' This was very much like the object of these disturbances in the Punjab which was to get this very timorous Government to repeal the Rowlatt Act. Lord Thurlow said

Under these circumstances it was, and after it had been in vain endeavoured to quell the riots by the intervention and authority of the civil power that the Military were employed; and therefore, the case being so far similar to the Rebellion in 1715 and 1745, that there was an actual insurrection, that the laws of the land were trampled under foot and the King's Government opposed. The military as well as everyone in a brown coat were justified in the commission of such trespasses and acts of homicide for the purpose of restoring the public peace as were justifiable in the year 1715 and in the year 1745.

This disposes entirely of what I may call the argument of the Hon'ble Pandit that martial law is only applicable where there is a case of invasion. In the Gordon Riots the military and private persons were entitled to do everything that they were entitled to do in 1715 and in 1745 when martial law as Hon'ble Members will remember had actually been declared by Act of Parliament, though here it had not. I will continue my quotation to do everything that was justifiable in the years 1715 and 1745 for the purpose of putting an end to the rebellion then on foot in the Kingdom. Not that he meant to say that either soldiers individually or collectively any more than private persons might not in their endeavours to quell the outrages, etc. lately committed have been guilty of some things which, under a cool legal investigation would appear to be contrary to law and punishable either by the Common or Statute Law of the Realm for undoubtedly in opposing, representing, and quelling such

during outrages as had been perpetrated, the military, as well as individuals, must necessarily have been forced into excesses, but when the occasion was duly considered, and the extreme hurry and violent confusion in which all men who joined in restoring the public peace were obliged to act, those excesses would be seen to have been unavoidable, and to be the proper objects of an Act of Indemnity, but not an Act more necessary for the military than for other persons who had done as the military had done, and been instrumental in effecting that good purpose which the military had effected'

"My Lord, I think three points emerge very clearly from this speech of Lord Thurlow. The first is, that the power of enforcing martial law where disturbances have gone beyond the civil arm is very akin to the right of self-defence, it is so not in the case of soldiers only but of everybody else. Secondly, it shows that we should look at the acts done in the light in which the Council are asked to look at them under this Bill, namely, considering whether the persons who did them did them in good faith and in the reasonable belief that they were necessary. The third point is quite clear from what the Lord Chancellor says. In doing that we have to take into account the circumstances of the time, the excitement of the moment, and the unfortunate fact that the man may have no one to consult. These are the legitimate circumstances which have to be taken into account. That, I venture to submit, is very material. In this connection I draw the attention of Council to the fact that the Bill reserves power to Government to prosecute in any case where it may find it necessary. No one in dealing with this Bill has referred to that point. Clause 6 (c) runs 'Nothing in this Act shall prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever'. Thus Government is not precluded from taking any action against an officer that is necessary. Then I draw attention to clause 6 (b), in which though we have confirmed sentences we have not gone nearly as far as was the case in the South Africa Acts. We have left the right of appeal to the Privy Council fully open. Under that clause if any appeal goes to the Privy Council, it will be decided as if this Act had not been passed. We cannot do more. If these sentences are monstrously unjust, if these tribunals have no jurisdiction, if there has been a denial of justice, if there has been a travesty of justice, (I believe I am correctly repeating expressions which have been used in this Council), the Courts are open and in England, the Privy Council will listen to any appeal on these grounds if a case can be made out. Years ago in Dillet's case it was laid down on what lines the Privy Council will hear appeals in criminal cases. If, as I say, there has been any denial of justice, we have left it open to the person aggrieved to go to the Privy Council, if there has not been a denial of justice, surely the sentences must be confirmed.

"There is much I should like to say in answer to my Hon'ble friend Mr Sinha and again in answer to the speech of my Hon'ble friend Mr. Sarma,

but I am afraid that at this hour I must resist the temptation. However I cannot help referring in conclusion to the dictum of my Hon'ble friend Mr. Sinha. He said what is the good of my trying to persuade the Government; I think I may console myself with the retort What is the good of my trying to persuade Mr. Sinha?

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The Hon'ble Sir William Vincent — My Lord I do not know if I shall be in order if before replying on this debate I give to Council some new information with reference to the Committee of Inquiry. I think the Council will be interested to know that the Secretary of State has now sanctioned the addition of one Indian and one European member to that Committee. This information is really in connection with the Bill but it is a matter in which the Council is greatly interested.

My Lord when I closed my opening speech on this Bill I said that I had avoided as far as possible prejudicing any question that would come before the Committee or saying anything that might provoke racial feeling. I believe it has generally been accepted by the Council that that was my attitude. But I was a little surprised to be accused by the Hon'ble Mr. Malaviya, of all people in this Council of attempting to prejudice the work of the Committee and that because I had ventured to put it to the Council—and I think Sir George Lowndes also said the same thing—that if the Committee of Inquiry appointed to inquire into this matter found that a man had acted reasonably and *bona fide*, I was quite sure they would not hold him in any way to blame. Well, after I spoke the Council heard the serious statements made by the Hon'ble Member himself attempts to create prejudice to minimise various facts and to place before Council *ex parte* statements as to particular incidents on which it was suggested that this Council should condemn particular officers or particular actions. My Lord, the Hon'ble Member has received such severe

The Hon'ble Pandit Madan Mohan Malaviya — May I rise to a point of order my Lord?

The President:— Personal explanation or point of order?

The Hon'ble Pandit Madan Mohan Malaviya — A correction my Lord.

The President — Personal explanation?"

The Hon'ble Pandit Madan Mohan Malaviya:— Exactly my Lord I never said that the Council should condemn any officer on *ex parte* statements. I said their action should be sifted by the Committee of Inquiry and then judgment pronounced."

The Hon'ble Sir William Vincent:— My Lord, the Hon'ble Member has received such severe castigation from the Hon'ble the Law Member that it really

would be an act of cruelty to say anything more of his speech. I can only say that, even if I had in any way been guilty of attempting to prejudice the decision or my report by the Committee or of creating an atmosphere of bias in respect of any matter, it would have been a case of *Suum* reproving the sin, for no man has been more guilty in that respect than the Hon'ble Member himself. But I leave it to Council to judge if I said anything which could prejudice the inquiry. My Lord, I regret very much, however, that an attempt has been made by the Hon'ble Member and by others to place particular incidents before the Council to make *ex parte* statements as to what happened on particular occasions, because I think that statements on the one side necessarily evoke from others contradiction, and that this Council was therefore placed in a very unfortunate position in regard to such incidents. Incidents, of which as the Hon'ble Mr. Sinha said, the Council do not know much, of which they now have half stories from one side and stories from the other, and I feel that would have been much better if both sides had left all these incidents alone. Such a course would not have affected this Bill and Council have left the whole of the facts to the Committee of Inquiry to decide.

"I must, however, myself quite clearly disclaim any intention to justify any particular action. It was for instance suggested that I was attempting to indemnify officers who were concerned in the Jallianwalla Bagh incident. My Lord, I had no such intention, nor can such an intention be deduced from the Bill. The question, whether these officers will be indemnified or not, will depend on the findings of Courts as to whether their action was *bona fide* and reasonable or not. I do not seek in any way to prejudice the point.

"In the course of the debate the Hon'ble Sir Dinshaw Wacha inquired whether the passing of this Bill would in any way affect the Committee of Inquiry. The answer has been given. The Committee of Inquiry is an administrative Committee. Its report will have no legal effect. The result will be, when it reports, that the opinions and recommendations will have to be decided by the authorities in order to see whether any person is to be punished or censured or commended administratively, but that has nothing whatever to do with the Courts. That Report will not be evidence in the Court. The legal liability of those concerned is a separate matter and can only be settled by either the common law or a Bill of this character.

"My Lord, it has been said that martial law was not necessary. I was anxious to abstain from expressing any view of the point at present, but as the subject has been dealt with at such length, I wish to add one word to the discussion, and that is to read the actual message—if I may with your Lordship's permission do so—on which the Government of India declared martial law. The Council have learned from Mr. Hailey's speech and from other Members all the incidents which preceded the 13th of April, and it is not necessary for me to

reiterate them. Well, on that day all other telegraphic communication being cut we received the following message by wireless telegraph :—

Railway stations between Kasur and Amritsar looted British soldier killed (As a matter of fact there were two) Two British officers injured at Kasur (There were more people than two injured.) Bands of rebels reported on the move Kasur treasury attacked; state of open rebellion exists in parts of the districts of Lahore and Amritsar Lieutenant-Governor with the concurrence of the General Officer Commanding the 16th Division and Chief Justice of the High Court requests the Governor General in Council to direct him to suspend the functions of the ordinary criminal courts in Amritsar and Lahore districts and establish martial law therein and direct the trial of offenders under section 2 of Regulation X of 1864. Situation critical Moveable column starts marching from Ferozepore to Amritsar through worst tract with guns to-morrow

I want to put it to any Member of this Council whether if he had been a Member of the Government of India at that time, with the information which is now before the Council on receipt of a telegram of that kind he would not have acted exactly as the Government of India did: if any officer would have dared to take the responsibility of not accepting a recommendation of that character. That is all my Lord, on the question of martial law but I think that this message adds to the information before the Council.

My Lord it has been said that this present Bill goes too far I do not think it necessary for me in any way to discuss that point. It has been fully debated already by the Hon'ble the law Member. Many detailed criticisms of various clauses were put forward which, if I may say so, appeared to me to be irrelevant in a debate of this character. We ought now really only to discuss the question as to whether an Indemnity Act of this character is necessary or not, and that is a question about which, I believe, nearly all the Members in this Council have been now convinced. It has been said, however that we ought to postpone the Bill because actions will not be brought at once, or if they are brought, postponement may be secured. Another suggestion was, you should bring the Act in now but make it an Act which will only suspend civil or criminal proceedings against officers. I would point out in answer to these suggestions that an action begun now may be decided before any Indemnity Act could be passed after the report of the Committee is received, and any lawyer member of this Council will know how difficult it would be to pass an Indemnity Act in regard to a suit either commenced or decreed. As to pending suits, is it fair that we should leave officers who, *ex hypothesi* as I said before, have done their duty with a possibility of being sued—or that we should say to them Well you may be indemnified for doing what was right or you may not, we will

tell you that six months later, when the Committee of Inquiry, which has nothing really whatever to do with your legal liabilities, has decided some other point' I submit that is not a right position for Government to take

"My Lord, there is only one other matter to which I wish to draw attention and that arises out of the remarks made by the Hon'ble Sardar Sundar Singh Majithra. He asked me to give him an assurance that those who gave evidence before the Committee would in no sense be harassed by the police. I am glad to give him that assurance, and I am quite sure that His Honour the Lieutenant-Governor will give full effect to it.

"Another point was that I was asked whether if the Committee should find that any officer of Government had been guilty of improper conduct, he would be punished. My Lord, I have already said that it is our hope that we may be able to publish the report of Committee, and it is certainly not our intention to treat the recommendations of this body as of no account in so far as we may accept their views. Any recommendations which they make will have to be considered, and such action as we think necessary will certainly be taken upon them "

The motion for postponment of the Bill was put and negatived.

The motion that leave be given to introduce the Bill was put and agreed to

The Hon'ble Sir William Vincent — "My Lord, I now introduce the Bill and move that the Bill, together with the statement of Objects and Reasons relating thereto, be published in the *Gazette of India* in English."

The motion was put and agreed to.

The Council then adjourned till Tuesday, the 23rd September, 1919, at
11 A.M.

(7) —From Proceedings of Meeting held on
September 24, 1919

The Indemnity Bill—(contd.)

The Hon'ble Sir William Vincent:— My Lord I move that the Bill to indemnify officers of Government and other persons in respect of certain acts done under martial law and to provide for other matters in connection therewith be taken into consideration.

The main principle of the Bill have been fully debated only a few days ago, and it would be idle for me now to waste the time of the Council by covering the same ground again. Such details as have been criticised by Hon'ble Members at the subject is one which is before the Council and I need not address Council in regard to them at present.

The Hon'ble Pandit Madan Mohan Malaviya — My Lord I beg to propose that the Bill be referred to a Select Committee. This is a very important Bill inasmuch as it involves very important questions of law and, I submit it is not a matter which should be hurried through the Council without its provisions being examined in a Select Committee. I suggest, my Lord, that the Select Committee should consist of the Hon'ble the Law Member the Hon'ble the Home Member the Hon'ble Sir Edward MacLagan, His Excellency the Commander-in-Chief the Hon'ble Mr Sarma the Hon'ble the Maharaja of Kassimbazar the Hon'ble Mr Sinha, the Hon'ble Sardar Sundar Singh Majithia, the Hon'ble Mr Crum and myself. There will be no harm my Lord, if the Bill is delayed a little while its provisions are so important that they ought to be examined in Select Committee. I therefore, move that the Bill be referred to a Select Committee consisting of the Hon'ble Members whose names I have mentioned.

The Hon'ble Sir William Vincent — Do I understand that the Hon'ble Member is moving an amendment to the motion?"

The President:— Is the Hon'ble Member moving an amendment to the motion which is on the paper?

The Hon'ble Pandit Madan Mohan Malaviya — My Lord, I have put forward what I had to say. I do not wish to add to or subtract from it."

The President — What I want the Hon'ble Member to give me a clear answer to is this. Is the Hon'ble Member putting forward an amendment to the motion which is on the paper?"

The Hon'ble Pandit Madan Mohan Malaviya — My Lord, I do not know whether I should call it a technical amendment. I am endeavouring on the motion before us to put forward the proposal that I have put forward for the

consideration of this Council. If a technical amendment is needed, my Lord, I will say that it is a technical amendment, but, I submit, that it is not necessary that there should be an amendment. On a motion made by the Hon'ble the Home Member, I am entitled to put forward the view I have done for the consideration of the Council."

The President — "The Hon'ble Member is perfectly within his rights to oppose a motion which is before the Council, but if the Hon'ble Member wishes to move an amendment, he must move it now. I take it from the Hon'ble Member that he is opposing the motion and not moving an amendment."

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, if an amendment is the only proposition which is before the Council on a question like this, I put it forward as an amendment."

The Hon'ble Sir William Vincent — "Then, my Lord, I take objection to the motion, on the ground that I have had no notice of the amendment."

The Hon'ble Pandit Madan Mohan Malaviya — "I submit, my Lord, that the Rules do not require notice. I beg your Excellency to refer to the Rules."

The President — "Will the Hon'ble Member refer me to the rule under which there is no necessity to give notice in the case of an amendment such as he proposes?"

The Hon'ble Pandit Madan Mohan Malaviya — "I think, your Excellency, that the Member who objects should show under what rule it is necessary. If the Hon'ble the Secretary of the Council will send me a copy of the Rules, I will refer your Excellency to it."

The Hon'ble Sir George Lowndes — "May I suggest that the practice here is, when we have got a motion before the Council, your Lordship as President has only that one motion to put to the Council. It is only if an amendment is moved to it, that your Excellency can put another motion to the Council. At present, there is only the one motion before the Council."

The President — "It is true that, under rule 28, when a Bill is taken into consideration by the Council, any Member may propose an amendment of such a Bill of which three days' notice should be given. What the Hon'ble Member suggests is not an amendment of the Bill, and, I think, he is in order and the Hon'ble Member can move the amendment as he proposes. Do I understand the Hon'ble Member has moved the amendment?"

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, I beg to move the amendment which I have placed before the Council."

The motion was put and negatived

*Then the motion that the Bill be taken into consideration
was put and agreed to*

The Hon'ble Sir William Vincent :—¹ My Lord, I move as an amendment—

That in the preamble of the Bill for the words it has been necessary for the purpose of maintaining or restoring order to resort to martial law the word martial law has been enforced be substituted.

During the debate on the Bill it was apparent from the speeches of many Hon'ble Member that the recital in the preamble was interpreted by them as a quasi admission that the Legislative Council accepted the view that the declaration of martial law was necessary; among other Members, my Hon'ble friend Mr Sinha drew particular attention to this point. I then said that we would consider the question of amending the preamble and the present amendment is proposed to give effect to that intention and to make it abundantly clear that there is nothing in the Bill which can in any way be interpreted as meaning that this Council has ratified or admitted the necessity for the enforcement of martial law.

The amendment as proposed merely make a statement of absolute fact which no one can controvert that martial law was enforced."

The motion was put and agreed to.

The Hon'ble Rao Bahadur B. N. Sarma :— I think my Lord the 2nd* and 3rd* amendments on the list would fall to the ground having regard to the acceptance of the first."

The President :— That is so. No 4† goes as well."

The Hon'ble Mr Sachchidananda Sinha — My Lord, the amendment I propose is

The Hon'ble Rao Bahadur B. N. Sarma :—

*2 That for the first paragraph of the preamble the following be substituted namely —

Whereas for the purpose of suppressing the recent disorders in certain districts of the Punjab and in other parts of India, and restoring order therein martial law has been resorted to.

3 That the words maintaining or in paragraph 1 of the preamble be omitted.

† The Hon'ble Mr Malaviya —

4. That in the first clause of the preamble, the words maintaining or be omitted

The Hon'ble Sir William Vincent —“ My Lord, may I suggest that, with your Lordship's permission, the Hon'ble Mr. Sinha should take up this amendment, which is really a consequential one, along with a subsequent amendment of his ”

The Hon'ble Mr. Sachchidananda Sinha —“ I shall do so with your Lordship's leave I propose that—

‘ In the second clause of the preamble the word ‘ certain ’
be inserted between the words ‘ indemnify ’ and ‘ officers ’
and I also propose .

The President —“ I think if the Hon'ble Member would postpone this until he comes to the clause, it will be more convenient to take it on the clause ”

The Hon'ble Mr. Sachchidananda Sinha —“ I shall do so, my Lord I now propose that in the same clause 2 of the preamble the words ‘ purporting to have been ordered or done ’ be omitted. The reasons for the proposal are these Acts which are either done or ordered to be done for the purpose of maintaining or restoring order are acts which we can all understand But it is difficult to understand acts to which the words in the preamble refer, namely, acts ‘ purporting to have been ordered or done ’ As this might cause some confusion without any substantial object being gained, so far as I know, I propose that these words be omitted ”

The Hon'ble Sir George Lowndes —“ My Lord, the Government are not prepared to accept this amendment The words are perfectly innocent in themselves, and they appear in most of the indemnity clauses, which so often find a place in our Acts. The object is to avoid any dispute as to whether an act was actually done for a particular purpose or only intended so to be done though it may not have effected that purpose Assuming that there is any question as to whether any act was done in good faith and in the belief (we shall come to that point later) that it was necessary for a particular purpose, its justification ought not to depend upon whether as a matter of fact the purpose was attained, if it was intended to attain that purpose, the act ought to be covered by the Indemnity When we come to the question of good faith, Hon'ble Members have got many an amendments on the paper, and they may possibly succeed in striking out the words in that clause, if so, then it might be reasonable to omit these words, but we could not omit them at the present stage I am quite willing, my Lord, to defer a vote on this amendment until we have done with the ‘ good faith ’ amendments, if my Hon'ble friend thinks there is any chance of their being carried, but I do not think there is any great chance of that ”

The Hon'ble Mr. Sachchidananda Sinha —“ As to the question of any chance of our amendments being carried, I have not the slightest hope at all, I would not defer consideration on that account.”

The motion was put and negatived.

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord I beg to move that in the second clause of the preamble the words maintaining or be omitted. My Lord, it is an abnormal position to my mind for which no support is found in the ancient Statutes of Parliament, though it may be found in some of the more recent enactments in some of the Colonies that you should resort to martial law for maintaining order. Maintenance of order should be secured by the ordinary police assisted when it may be necessary by the military troops. I therefore submit that these two words maintaining or should be omitted from the second clause of the preamble."

The Hon'ble Sir William Vincent :— My Lord I submit that it is essential that these words maintaining or should be retained. It will be obvious to Members of this Council that once martial law is declared, or enforced, officers of the Government have not only to suppress active disorder but they have to maintain order as well. For instance, my Lord, supposing there was a disorderly mob about to collect for some improper purpose, it would in such circumstances obviously be necessary for the military commander to issue orders prohibiting the assembly and if necessary prevent such assembly by force. Otherwise indeed his position would be an impossible one; he would have to wait until mischief was begun and then begin to suppress it. It will be clear to the Council therefore, I hope, that the retention of these words is absolutely necessary."

The Hon'ble Rao Bahadur B. N. Sarma :— My Lord, I think that the Hon'ble the Home Member might reconsider this question. His objection to Mr. Malaviya's amendment is, that during the suppression of a disorder order has to be maintained. It can only be maintained under martial law and consequently the words maintaining or would be thoroughly appropriate, because there would otherwise be no one to maintain order during that period.

What is mentioned here is for the purposes the general purposes, 'of maintaining or restoring order. That raises a large question, namely whether in future where disorders are to be suppressed martial law can continue for the general purpose of maintaining order if the officers charged with the duty of suppressing disorders should be indemnified under this Act in respect of acts done after the disorders had been suppressed. My submission is, that this would lead to the acceptance by the Legislature of the principle that martial law can be resorted to by the Government for the purpose of maintaining order although they had suppressed disorders, and that any person who uses extreme measures thereafter for maintaining order should be protected. The ordinary law is, that the civil arm must meet all contingencies and maintain order once violent armed rebellion is suppressed. My submission is that we in this legislative assembly should not accept any other principle. I do not want to raise this question merely

for an argumentative purpose I submit that this Act will be quoted as a precedent. It may be open to a future Government whenever a riot cannot be quelled, to have recourse to martial law. The police and the magistracy have the right to invite the co-operation of the military for the purpose of quelling a riot and all necessary force can be used, but the civil power and the military assisting it have to take cognisance of the fact that if unnecessary force be used the officers would be liable to punishment. I do not think there have been any cases where the officers in such circumstances have been protected by an Indemnity Act. I will quote a passage from Dickey, showing that protection lasts only as long as the necessity lasts for suppressing disorder, but no longer. This is what Dickey says —

‘ Martial law in the sense in which the expression is here used, means the power, right or duty of the Crown and its servants, or, in other words, the Government, to maintain public order, or in technical language the King’s peace at whatever cost of blood or property may be in strictness necessary for that purpose. Hence, martial law comes into existence in times of invasion or insurrection where and in so far as the King’s peace cannot be maintained by ordinary means, and owes its existence to urgent and paramount necessity. The point to be borne in mind is, that the power to exercise martial law which is not ill described by an expression known to the American Courts, namely, that of ‘ War power,’ as it originates in so, it is limited by the necessity of the case. The only principle on which the law of England tolerates what is called martial law is necessity, its introduction can only be justified by necessity, its continuance requires precisely the same justification of necessity and if it survives the necessity on which alone it rests for a single minute, it becomes instantly a mere exercise of lawless violence ’

There are a number of other passages —

‘ Such legal right or duty always lasts so long and so long only as the circumstances exist which necessitate the use of force ’

“ My submission is that the Government would be right in asking for the protection of their officers during the suppression of the rebellion and for the purpose of maintaining order during that period, but they cannot ask, and they should not ask this Council, for the acceptance of this novel principle that whenever order cannot be maintained by the police and the military force is used, its officers be indemnified. I, therefore, submit that the words ‘ maintaining or ’ should be omitted in the second paragraph of the preamble,”

The Hon’ble Sir George Lowndes — “ My Lord, as I pointed out the other day, martial law steps in when the ordinary civil courts are unable, I use the words deliberately, to maintain order or to suppress disorder. The Hon’ble

Pandit and the Hon'ble Mr Sarma have suggested that the insertion of the word maintaining created a new doctrine without a precedent. It is, if I may say so, nothing of the sort. It is inconceivable to me that Mr Sarma should say this after reading the passage he did from Dicey. Let me read it again:—

Hence martial law comes into existence in times of invasion or insurrection when where, and in so far as the king's peace cannot be maintained by the ordinary means.

The Hon'ble Pandit Madan Mohan Malaviya:— What page?"

The Hon'ble Sir George Lowndes — My Lord, I decline to be interrupted by the Hon'ble Pandit. When the ordinary courts cannot maintain order or suppress disorder you must have martial law. The maintenance of order is one of the definite objects with which martial law is put into force. The Hon'ble Pandit also said that there was no precedent for this, and yet during the past few days I have lent him and every Member of this Council who has asked for them the South Africa Acts which are the latest examples of martial law and Indemnifying Acts. In each one of them you find that martial law was used for maintaining order. I will not trouble the Council with many extracts, I will read the first that comes to hand. Section 1 of the Act of 1900 says—my Hon'ble friend will find the same in them all—

All acts, matters and things whatsoever in good faith advised, commanded ordered directed or done, as necessary for the suppression of hostilities or the establishment and maintenance of good order and government.

It is the same in most of the older Acts. We are introducing nothing new nothing without precedent."

The Hon'ble Pandit Madan Mohan Malaviya:— My Lord, the Hon'ble the Law Member quotes a sentence from Dicey in which he says that where order cannot be maintained by the civil courts martial law steps in. That is very different from saying that that sentence gives support to the proposition he advances. One point is that you do not find this authority in the Acts of Parliament. You had some authority in the three Acts of South Africa but, my Lord, these three Acts of South Africa ought not to be a model as against the Acts of Parliament. I should like the Hon'ble the Law Member to quote any Act of Parliament in which for the purposes of maintaining order martial law has been justified. Then my Lord, I gave a certain authority which the Hon'ble the Law Member will not disregard.

The Hon'ble Sir George Lowndes — My Lord, may I interrupt?"

The Hon'ble Pandit Madan Mohan Malaviya — My Lord I object."

The Hon'ble Sir George Lowndes — Very well. The Hon'ble Member does not want it. It is there.

The Hon'ble Pandit Madan Mohan Malaviya — "The Hon'ble the Law Member was afraid to let me have the page of his quotation, which is the smallest courtesy that any Member of this Council is entitled to. We are coming to bad ways."

The President — "I quite agree. Will the Hon'ble Member proceed?"

The Hon'ble Pandit Madan Mohan Malaviya — "Thank you, my Lord

"Now, the Earl of Halsbury in Vol. VI of the Laws of England says —

'The Crown may not issue commissions in time of peace to try civilians by martial law. but when a state of actual war, or of insurrection, riot, or rebellion amounting to war exists, the Crown and its officers may use the amount of force necessary in the circumstances to restore order, and this use of force is sometimes termed martial law. When once this state of actual war exists, the Civil Courts have no authority to call in question the actions of the [military] authorities, but the powers of the military authorities cease and those of the Civil Courts are resumed *ipso facto* with the termination of the disorder.'

"I submit, my Lord, that this is an authority which the Hon'ble the Law Member cannot disregard or make light of, and it is entirely in support of the proposition which I have put before the Council, namely, that the words 'maintaining or' should be omitted from the second clause of the preamble."

The motion was put and negatived

The Hon'ble Rao Bahadur B. N. Sarma — My Lord, I beg to move that in paragraph 2 of the preamble the words 'in a reasonable belief that they were necessary' be omitted.

"My Lord, as far as I can see, the words used in all the enactments dealing with Acts to indemnify officers are 'done in good faith as necessary for the said purpose.' I have not been able to come across these additional words 'in a reasonable belief that they were necessary.' On that ground alone I might ask the Council to follow the precedents set to us by the Legislature of various countries and drop the words 'in a reasonable belief that they were necessary,' because they would lead to an inquiry of a somewhat elaborate character on which no safe conclusions can be come to. But I have a greater objection, and it is this. As the Bill stands, the person who comes into the Court to seek redress will have to show two things, first of all, that the act of which he complains was not done in good faith, and, secondly, that it was not done in a reasonable belief that the act was necessary for the purpose. I would first like to ask the Hon'ble the Law Member to explain clearly for what purpose these additional words have been used, and how they would not be covered by the same words 'good faith' and if some additional meaning is sought to be imported, what that additional meaning is. But as they stand, my difficulty is, the person aggrieved

will have to prove two things instead of one thing which generally he is asked to do by almost every Legislature. Then with regard to the words "reasonable belief." Supposing a person has to show that an officer did not believe that an act was necessary. I think it is almost impossible for him to prove it. But you may say that the words "reasonable belief and in good faith" are there. There, my Lord, comes in the difficulty. Supposing in a particular community there is a belief entertained that particular measures, however wrong they may be from the moral standpoint, are necessary for achieving a certain end. Now taking the moral atmosphere of Germany, for instance, it was considered by all alike—professors, philosophers of law, philosophers of morality, by military men and in fact by all classes, that certain measures, which were condemned by the rest of humanity as non-civilized methods, could be employed. Well, if you are to judge a German officer labouring under that impression, could not these words "reasonable belief" protect him because he believed that they were necessary, the atmosphere in which he moved led him to believe that they were necessary also. Therefore, if you are to judge him by that standard, certainly he ought to be protected. Similarly, supposing the atmosphere in the Panjab in those days was such that the several gentlemen who were responsible felt that there must be a deviation, a departure from standards which are generally considered to be humane and civilized. I need hardly allude to the *Salaaming* order and several other orders that were passed to which allusion has already been made, because it will only tend to embitter feelings and do no good. There are certain orders which cannot be justified by any standard of morality. Now supposing the officers, having regard to the mental atmosphere surrounding them, believed that those acts were necessary and reasonable, my Lord, will they be protected? I submit, an elaborate inquiry of that description might be opened. I will not say would be opened, but might be opened. If the various theories on which States like India are held and can be held in subjection are to be brought before the law courts. Therefore, there is no precedent for it; it might lead to various difficulties; and I, therefore, earnestly request that these words be omitted."

The Hon'ble Sir George Lowndes.—My Lord, I regret I am unable either to omit these words or to explain any more clearly to my Hon'ble friend, Mr. Sarma, than I did on the last occasion, what the real intention and object of the words are. We had a clear admission of the propriety of this clause in his previous speech when he asked us to adopt the actual wording of the South Africa Acts, which the Hon'ble Pandit so violently disputed.

I explained last time that the words "in a reasonable belief" that the acts were necessary are only a translation from the wording of the South Africa Acts: we could of course, use the actual words of the South Africa Acts, that is, acts done as necessary. I think this means done as being necessary, that is, the acts were so done because the men who did them believed that they were necessary. We do not stop there. We say reasonably believed that they were necessary. We only propose to indemnify men, who

had a reasonable belief that their acts were necessary. I am sure the Council will accept this as at all events a fair translation of the words which my Hon'ble friend Mr. Sarni would have preferred to have in the Bill.

"Then he talked about the mental atmosphere being immaterial. He forgot, I am sure, the quotation which I read from the speech of perhaps one of the greatest Lord Chancellors in the House of Lords. I quoted it at some length and I do not propose to read it again,—it is here and my Hon'ble friend can see it if he wishes to. Lord Thurlow says that you must take into account the mental atmosphere, that you must consider the circumstances under which a man had to make up his mind as to what he should do in an extreme emergency, and if he made up his mind reasonably, you should not consider *ex post facto* whether the acts he did were necessary. The real test should be whether he had a reasonable belief at the time that they were necessary, and did them in good faith. If Hon'ble Members are going to insert amendments like this in an Act which is intended to protect officers who did their duty in good faith under very trying circumstances, I say an Indemnity Act from this Council is not worth having."

The motion was put and negatived

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, I beg to propose that—

'In the second paragraph of the preamble for the words 'and in a reasonable belief that they were necessary for the said purposes,' the following be substituted —

'necessarily and properly, in furtherance and execution of the objects for which martial law was proclaimed as aforesaid'

"My Lord, I have taken this clause from an Act of the laws of St. Vincent, Act No 189 of 1862. After indemnifying certain officers against acts done by them during the prevalence of martial law, the Act proceeds—'provided always an indemnity hereby granted is granted on this supposition and condition that all such acts, matters and things shall have been done or shall be done *bona fide* necessarily and properly in furtherance and execution of the objects for which martial law was proclaimed as aforesaid'

"Now, my Lord, I think that this is a much more reasonable provision to adopt, than the one that stands at present in the Bill. Here, you say that a man should have acted *bona fide*, that is, in good faith, and necessarily and properly. That would include a consideration of what humanity demands. That will include also that the thing should have been done to suppress disorder, and a reasonable belief will be implied in the phraseology I have suggested. He must act reasonably in finding out that it was necessary and in a proper way. I hope this amendment at least may find acceptance at the hands of Government."

The Hon'ble Sir George Lowndes :— If I heard the Hon'ble Member aright he said he had taken these words from an Act of St. Vincent. That is no doubt out of compliment to the Hon'ble Member who is in charge of the Bill. I can see no other reason for his having done so. The Act of St. Vincent goes back to 1862, that is getting on to 60 years ago now whereas we have tried to follow a more recent model. I have nothing really to add to what I said on the last amendment. The point is this, as I tried to explain, that we do not want in this Bill to make the test whether things were or were not in fact necessary. The fact that they were unnecessary judged *ex post facto* is not the test for indemnity in the case of acts done under these very difficult circumstances. What we have got to find is whether they were reasonably believed to be necessary at the time taking into account the conditions under which the men who did them had to act. We are not going to examine them on an *ex post facto* basis, or consider looking back now when all is over we think they were really necessary or not. That is not my idea of an Indemnity Act. I regret Government is not able to accept this amendment.

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord we have had some novel arguments, but the most novel argument I have heard to-day is the argument of the Law Member that a thing is to be rejected because it is ancient. I fear much will have to be put aside in favour of modern ideas as to what should or should not be done. I take it that the fact that a thing is ancient is rather a recommendation. At any rate, I am prepared that the matter should be considered on its merits. Let us consider which is better the provision which is now being proposed by the Government the paraphrase of the words done as necessary of the Acts of South Africa, or the language of the enactment from which I have borrowed my phraseology namely that the indemnity shall be granted upon this apposition that all such acts, matters or things shall be done *bona fide* that is in good faith of course, necessarily and properly in furtherance and execution of the object for which martial law was proclaimed as aforesaid.

If this phraseology is adopted where it would be reasonable to extend indemnity it would be extended but it would cut off a lot of other acts which may not have been done properly and which may not have been necessary. The Hon'ble the Law Member would not allow any discussion of the question whether certain acts were necessary or not by the phraseology which he has chosen to adopt. How is a man to know what the belief of a particular individual was when he was acting? If you put it on the ground that he should show whether the thing was necessary that he should show that it was proper then you are on solid ground but you are in the regions of vagueness and uncertainty in putting in the phraseology that a thing should be done in a reasonable belief. I therefore, hope that unless the Government can find some more substantial argument against my proposition than that it is somewhat ancient as

compared to the provisions in the South Africa Acts, they will reconsider the position. This will mean a great change in the outlook of those who may be concerned with such cases. If you retain the phraseology 'in good faith and in a reasonable belief,' you make it a very difficult thing, if not a practical impossibility, for the plaintiff to establish a case for damages against a person who may have injured or oppressed him. He may come into the witness box and swear that he reasonably believed that this was necessary and that would be an obstacle. The Act even saves him the necessity of swearing even to that, because the third section of the Act says that that will be presumed if a certificate has been obtained from a Secretary to Government. I therefore think we are carrying things too far if putting the provision in the present form, and if you accept my suggestion and substitute the words 'necessarily and properly in furtherance and execution of the objects for which martial law was proclaimed,' you would leave a fair chance to plaintiffs to have the justice to which they may be entitled. I, therefore, press this amendment on the consideration of the Government.

The motion was put and negatived

The Hon'ble Sir William Vincent —“ My Lord, may I again suggest that the Hon'ble Member should take up this amendment* with his amendment No 32. I would suggest, with your Lordship's permission, that it would be more convenient to the Council. The present is a consequential amendment on the later one.”

The Hon'ble Rao Bahadur B N Sarma —“ I have no objection to that, even if No 32 is rejected it comes to the same thing ”

The President —“ No 10 *will stand over ”

The Hon'ble Mr Sachchidananda Sinha —“ My Lord, I move that—

‘ In clause 2 for the words ‘any officer of Government whether Civil or Military,’ the words ‘any police officer of or below the rank of Assistant or Deputy Superintendent of Police and any soldier or non-commissioned officer of His Majesty's Army acting under the orders of their superior officers ’ be substituted ’

“ My Lord, the reason for this amendment is obvious. In the course of his opening speech the Hon'ble the Home Member insisted repeatedly that if the Indemnity Act was not* passed, it would be putting in a very serious predicament a large number of soldiers and inferior officers who had taken part in carrying out the orders of their superior officers. I, therefore, propose to limit this class by giving a definition of the officers concerned, as to who the

***The Hon'ble Mr Sarma** —10 ‘ That to paragraph 3 of the preamble, the following be added ‘in certain cases and subject to the limitations specified herein below.’

officers will be who will be indemnified by this Act for all acts done by them. As regards the superior officers, they will be under the common law protected for all acts done in good faith. But if it can be established that certain acts were done by them, or ordered by them not in good faith if they committed an atrocity or something that should not be done the law will not protect them. For this reason I propose my amendment."

The Hon'ble Sir William Vincent :— I think when I explain to the Council what the effect of this amendment would be, every Member of this Council every reasonable Member including the Hon'ble mover will be convinced that it really is an impossible amendment for acceptance. Reading the amendment, it will be seen that it would limit the protection afforded by the Bill to the case of police officers and soldiers. Now many other officers besides police officers have been engaged in the suppression of the disorders, officers both civil and military

I am for instance, informed that *Tekildars* and other revenue officers have been so used. There was also an Indian Sub-divisional Officer at *Basar* and there was an Indian Deputy Commissioner in one district besides European Deputy Commissioners in other districts whose services were similarly used and there is really no reason why the protection which is given to police officers should be refused to officers of this class. Then, again in the case even of police officers, why is an Assistant or a Deputy Superintendent of Police to be exonerated for acts done in good faith while a Superintendent of Police is not to receive the same protection? Is that fair is that reasonable? Is there any reason for instance why Mr. Heron, Superintendent of Police in one of the districts, whose name I have heard quoted—I do not happen to know him myself—if he has acted *bona fide* and in the reasonable belief that his action was necessary should not receive the protection of this Act? Is there any reason why a subaltern or commissioned officer of the Army who has had to take part in quelling these disorders and who would be excluded by this amendment, should not receive the benefit of the Act? I am sure, if he thinks over the effect of his proposal that the Hon'ble Member will withdraw his amendment."

The Hon'ble Mr. Sachchidananda Sinha :— I desire to say in reply that the reason why I framed the amendment in this way was that I considered that those officers who may be held to have initiated a certain policy should not receive the protection of the Indemnity Act unless, of course, they can show that their acts were done in good faith. That was the only principle on which I framed my amendment. I have nothing further to say."

The motion was put and negatived.

The President — With the rejection of that amendment the amendment to be moved by the Hon'ble Mr. Sinha, No. 5* on the paper with regard to the preamble, will, of course drop."

*That in second clause of the preamble the word certain is inserted between the words indemnify and officers. *Vide page 547 ante* ?

The Hon'ble Mr Sachchidananda Sinha —“ My Lord, I move—

‘ That in clause 2 for the words ‘ person acting under the orders of any such officer ’ the words ‘ person acting under the orders of any Magistrate, police officer not below the rank of Deputy or Assistant Superintendent of Police, and any commissioned officer of His Majesty’s Army ’ be substituted—

The reason for this amendment is that otherwise the private individual, for whose benefit this clause is intended, might plead that he did a certain act under the orders of a *chaulidar* or a constable. That would be certainly carrying, I would not say the joke too far, but the point too far, and, therefore, I have brought in these words to give some substance to the proposition that the officer concerned must be one of a certain standing and not anybody or everybody. On this ground I move my amendment ”

The Hon'ble Sir William Vincent —“ This is an amendment of much the same character as the last one, the acceptance of it would involve this consequence, that any person acting under the orders of, say, an Inspector of Police—and I believe an Inspector of Police was actually the senior officer present at one place, Tarn Taran, though I have not verified this point—any person acting under the orders of an Inspector of Police would not be protected, however properly he had acted, however *bona fide* his action might have been. Again, there were many places in which non commissioned officers of the Army were placed in positions of great responsibility. Is the man who obeyed, *bona fide*, the orders of such an officer not to be protected, if he has acted properly? Was it his duty to ascertain the badges or rank of an officer giving the orders or to inquire of a Police officer ‘ What are you exactly? Are you an Inspector of Police or an Assistant Superintendent? ’ I do not think that this amendment will commend itself for one moment to this Council. And I again suggest to the Hon'ble Member that, instead of putting an amendment of this character to the vote, he should exercise a wise discretion and withdraw it.”

The Hon'ble Mr Sachchidananda Sinha —“ There is nothing to withdraw, the result will be the same. It will be defeated ”

The motion was put and negatived

The Hon'ble Mr Sachchidananda Sinha —“ This* is practically the same as the last amendment which I moved (No 12) and, as that was not accepted, it is no good pressing this ”

The motion was by leave withdrawn

* 13. ‘ That in clause 2 the words ‘ or purporting to have been ordered or done be omitted.’

The Hon'ble Mr Sachchidananda Sinha — My Lord I move that in clause 2 after the words British India the words 'where martial law was established' be inserted.

My Lord, I do hope that the Hon'ble the Home Member will see his way to accept this amendment because it will bring the preamble into consonance with the section. The preamble very properly lays down :—

Whereas owing to the recent disorders in certain districts in the

Punjab and other parts of India, martial law has been enforced.

In section 2 no such limitation is placed and the very general and wide word 'British India' are used. It might lead to some serious difficulty if this Act were applied in other places than the districts of the Punjab or certain other places specified in the preamble. Therefore I think the Government might see their way to accept my amendment that the words 'British India' should be limited by the words 'where martial law was established'.

The Hon'ble Sir William Vincent — My Lord I submit this is an unsound amendment. The use of words 'martial law was established' implies in some way that a proclamation of martial law or some formal action of that kind is necessary before martial law is enforced. That is however not the fact. A proclamation of martial law is only the means by which the fact of martial law being in force is made known to the public, I presume that the Hon'ble Member meant by the words 'martial law was established' that martial law had been proclaimed."

The Hon'ble Mr Sachchidananda Sinha — I mean exactly what the Hon'ble Member meant by changing the preamble himself from the words 'it has been necessary for the purpose of maintaining order to resort to martial law' into the words 'martial law has been enforced'. If he will accept same words in this clause, I shall be quite happy to withdraw the words of my amendment 'where martial law was established'.

The Hon'ble Sir William Vincent — Very well, my Lord. I am informed by my Hon'ble colleague the Law Member that the use of the words 'where martial law was enforced' is not open to objection, and I am prepared to accept the amendment as modified."

The Hon'ble Mr Sachchidananda Sinha :— I am very grateful to the Hon'ble the Home Member."

The amended motion was put and agreed to.

The Hon'ble Rao Bahadur B N Sarma :— My Lord I beg to move that in clause 2 for the words 'the 30th of March 1919' the words 'the proclamation of martial law therein' be substituted.

"Then the clause will run —

'No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act matter or thing ordered or done for the purpose of maintaining or restoring order in any part of British India where martial law was enforced on or after the proclamation of martial law therein etc

"This is an important amendment. From the opening words of the Hon'ble the Honourable Member when speaking to the previous amendment, I can see in a way what the object of putting this particular date, the 30th of March 1919, is. Now my Lord we are here on a very important question as to whether this Indemnity Bill is to cover acts done when the civil power was in authority, but merely aided the military to aid it in suppressing disorder as it is entitled to do under the Criminal Procedure Code, or whether it is to be restricted to acts done by officers after the proclamation of martial law

"In the former event we come to this that it is open to the executive Government to enable its officers, civil and military, to do whatever may be done during the operation of martial law even prior to the proclamation of martial law, when civil courts are sitting and in full assumption of authority, and indemnifying them thereafter. My Lord, I submit that is a very dangerous doctrine to lay down. It would be extremely mischievous if the civil authorities or the military authorities who assist them, during the time of peace when the civil authorities are in full direction of the maintenance of order, are to consider themselves as entitled to protection for their acts which are legally indefensible. It would lead to very grave consequences if officers, civil and military, were to be under that impression, or if any indulgence should be shown to the executive Government by protecting their officers in respect of acts which cannot be justified under the ordinary law of the land. I know there are certain passages which can be quoted in support of the position that martial law is after all a technical term for military law, which enforces order when there is grave necessity even though there may be no proclamation, and that proclamation might possibly be construed by constitutional writers as being intended for the protection of the public not to violate certain orders. But, my Lord, we sitting here as a Legislature, and knowing full well that the people have no real voice in the Government, should not allow the executive of the land to take such wide powers or allow executive officers in the country to believe that they can seek protection even for absolutely unjustifiable acts on theoretical grounds. I submit, therefore, that the definition of martial law put forward by constitutional writers tentatively should not be relied upon by the Government as justifying the insertion of the words '30th

March 1919. My Lord, this is a very important question for the simple reason that martial law was confined chiefly to the province of the Punjab, though I believe it was in force in the Peshawar presidency for a day or two and never in Delhi at all. It is admitted that before the 10th of April there was no collision between the military or the civil authorities and the people. Consequently I cannot understand the reason for the insertion of the date 30th March. Martial law was proclaimed by His Excellency the Governor-General in Council only on the 14th; it might have been intended to be proclaimed little earlier but the earliest date was the 14th April 1919 so far as I can see. It is just prior to that period that various acts of a highly unjustifiable character according to the people were committed. I need hardly allude to the Jallianwala Bagh incident, the belly crawling incident or the aeroplane incident. Those were acts for which the civil and military authorities would have to justify themselves before the ordinary courts in the land in the usual way. To raise a presumption in those cases would be to give a violent confiscation of the rights of the subject. It may be that those officers can justify themselves before the Committee of Inquiry or before a judicial tribunal; but for us, my Lord to raise a presumption in their favour on our present information as this Bill proposes to do, would be absolutely unjustifiable and a travesty of justice. I think, on the other hand as to the persons who have issued these orders, who have exercised those acts in a transparently high handed character absolutely—I do not want to prejudge matter one way or the other but as things stand we have to go upon certain facts—I submit to enable those officers to reap the benefit of these provisions would be to ask the people to believe that the executive Government would do anything to protect its officers whatever may be their high handedness, and however unjustifiable may be their acts. I hope and pray that the Government will have some regard for public sentiment and re-establish itself in the confidence of the people by showing clearly that it is immaterial how high the officer may be and that justice would be done. We were told that it was under the authority of the civil power that aeroplanes were used in Gujranwala, and that the incidents which occurred on the 13th April at Amritsar were after the civil power acknowledged its inability to enforce order. Consequently I think, it ought to be open to the judicial tribunals to go into the question as to whether by the constitutional law of the United Kingdom or India it is open to the civil power to employ aeroplanes under such circumstances or under any circumstances. My Lord, to take protection for all those acts which have been condemned in England even during the time of the war would, I think be going too far even in India. I hope therefore, that the protection will be really given only in respect of acts done after martial law had been proclaimed and not a minute before. Let those officers, if any be brought either by the Government or by the public before judicial tribunals in the ordinary course. It is perfectly open to them to show that they acted in good faith and in reasonable belief that they were only maintaining or restoring order and justice, that the civil power had asked them and that the civil power

was justified in asking them to do so. That is a question of fact, as has been proved by constitutional writers, which has to be determined by the judicial courts, namely, the justification of any particular act done in a state of war is ultimately examinable in the ordinary courts. But in the absence of an Indemnity Act the law goes so far as to say that the justification of any act is a question which can be brought up in a civil court. When the law is so stringent in the absence of an Indemnity Act, we ought to be very careful as to how far we interfere with the common law of the land and the statutory law of the land which lays down the policy for civil and military officers. There are the Criminal Procedure Code and the Indian Penal Code, there are various other penal laws which show clearly the limits within which officers should act during peace time, during the time the civil arm is supreme. No one will venture to say that the civil arm was not supreme before the proclamations. I, therefore, submit that the Council will see their way to accept my amendment which follows logically and as a natural consequence the acceptance of the principle that an Indemnity Bill follows the enforcement of martial law. The Hon'ble Sir William Vincent has told us in the beginning of his introductory speech in substance as follows: 'Martial law has been proclaimed, people have acted on the faith of that; we have proclaimed on the 14th April or some such date that support will be given to every civil and military officer in enforcing order; and acting on the strength of that proclamation we are keeping our good faith with the officers who acted and here are Hon'ble Members opposing us.' My Lord, I am not referring at all to what has been done after that promise was held out. But that promise was made only on or after the 14th April. There is another point also. Various acts committed prior to the proclamation of martial law would come within the purview of this Act, if 30th March be taken into consideration. Even taking the theory that martial law really means law which the military would enforce when the civil arm is weak or unable to maintain order, even assuming that, my submission is that these proclamations were issued for the purpose of giving notice to the people. Even taking that doctrine, my submission is that the 30th March is absolutely unjustifiable, and I hope Government will be able to accept this amendment."

The Hon'ble Sir William Vincent.—"My Lord, the Hon'ble Member now proposes that the period prescribed in this clause for the protection of officers should begin from the proclamation of martial law. If Hon'ble Members will look down the list of amendments they will see, however, that he proposes that the termination of the period during which protection should be given should be the 23rd April, a date long before our notification withdrawing martial law was issued. The date of commencement is to be postponed and the last day up to which protection is to be given is to be antedated. But, my Lord, I want to pass to very much broader objections than this to the amendment. It is one of a series of amendments intended to whittle down the whole effect of this Act. General principles were discussed in great detail in this Council

lately and there was a general consensus of opinion that the principle of the Bill should be accepted; I think there were only three or four Hon'ble members who did not take that view. In such circumstances, it is a very common move to say, well if we have to pass the Bill let us make it ineffective by a ~~specification~~ of amendments, and the present is one of the amendments intended to effect that object. My Lord, our view is that the whole of these disturbances are one connected whole; that they began with the disturbances of the 30th March at Delhi and from that date onwards, from time to time it was necessary to enforce martial law in different places. There was no definite proclamation of martial law in some places at all, nor in any proclamation the essence of the matter. The real question is, when was martial law actually enforced? The Hon'ble Member is aware of the weakness of his position when he said that various quotations would be made to prove that he was incorrect. I have a number of authorities on the point here. I will cite one a quotation from the Law Quarterly Journal—Mr Erle Richards, 1st ed Justice. A proclamation is not in any sense essential to the exercise of these powers; it is a convenient notification to the inhabitants that the Commander has assumed control of the district but in no way affects the legality or illegality of his action. Then I will read a joint opinion by the Attorney General and the Solicitor-General in regard to certain disturbances which arose in Canada. In any district in which by reason of armed bodies of inhabitants being engaged in insurrection the ordinary course of the law cannot be maintained, we are of opinion that the Governor may even without any proclamation, proceed to put down the rebellion by force of arms.

There are numerous other authorities on the same question and the law is perfectly clear. In fact I am not aware that martial law was at any time proclaimed in the Bombay Presidency. If it was I have not seen any notification, I speak subject to correction. If that is so the effect would be if the Hon'ble Member's amendment were accepted, that the officers of Government in Bombay in those places in which martial law was enforced would not get any protection at all under the Bill. There were also certain districts in the Punjab in which the military authorities had to take over control when the civil authorities were not able to cope with the situation, and where martial law was enforced long before it was formally proclaimed by the Government of India. Thus, in Aden the local military authorities in order to preserve peace had to take over the situation long before or at any rate sometime before martial law was proclaimed. The Hon'ble Member went on to say why were the ordinary laws, the Criminal Procedure Code and the Indian Penal Code not utilised?

Why did these gentlemen not look up these laws and act according to them? That, my Lord, is exactly the position that I said in the opening debate was impossible. When there is serious disorder which the civil authorities are entirely unable to deal with an insurrection against the King is the officer who has to quell it to run and look up the Criminal Procedure Code or the Indian Penal Code to discover if there is a section that will protect him before he takes effective action? Such a position is absurd.

For the reason, my Lord, it is impossible for the Government to accept the date of the proclamation of martial law as the date from which this clause of the Bill is to protect officers for *bona fide* action."

[At this stage the Chamber adjourned for Lunch till 3 p.m.]

The Hon'ble Pandit Madan Mohan Malaviya — "My Lord, the position taken up by the Hon'ble the Home Member does not come on some of us as a surprise. Hitherto we understood that an Indemnifying Bill was to be introduced in the years where martial law had been proclaimed and because martial law had been proclaimed. But now the position taken up by the Hon'ble the Home Member is that a proclamation of martial law is not essential, and that if the military take charge of a place where there has been a disturbance, that is sufficient to bring the area in which this happened within the operation of this Bill. My Lord, it is a dangerous extension. It is meant to cover cases which could not be justified without such extension, and it is a great blow to those who suffered in those years where martial law had not been proclaimed."

"My Lord, it is hopeless to expect that the Government will go back upon the position taken up by the Hon'ble the Home Member, but we feel that we must enter our protest against this departure. The Hon'ble the Home Member complained that the series of amendments which have been put forward by some of us had only one object, namely, to whittle down the Bill. My Lord, when we cannot entirely prevent the passing of the Bill the next best thing that we can do, is to minimise the evil which its provisions contain, to safeguard the interests of the public as much as we can, and to object to as many provisions as are clearly objectionable, and to endeavour to put in as many safeguards as we may be able to press upon the consideration of the Government. I do not think the complaint that has been made by the Hon'ble the Home Member is justified. I hope that if the Government cannot see their way to accept this amendment, they will at any rate recognise that we have reason on our side, and that they have the votes on their side."

The Hon'ble Rao Bahadur B. N. Sarma — "My Lord, we still hope that the Hon'ble the Home Member will confine the operation of the Bill to areas where martial law had been proclaimed. The Hon'ble Pandit Malaviya has also referred to the very great danger of extending it to areas where the civil arm was exercising its jurisdiction, although the civil officers had to call in the aid of the military for the purposes of enforcing order, it being thought that the police were not able to cope with the evil. There seems to me, my Lord, another great danger and that is this. It means that any Local Government without coming up here under the provisions of section 71 of the Government of India Act for the purpose of asking the Government of India to frame regulations for their presidencies when the ordinary law is not sufficient for the purpose, can, by virtue of the doctrine now enunciated practically extend martial law to any area within their jurisdiction the moment they feel that

the civil power is temporarily unable to cope with disorder in any town or village. I think that was never intended by the constitution. Section 71 of the Government of India Act says that the Local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council to draft any regulation for the peace and good government of that part with reasons for the proposed regulations. The Government may or may not accept this proposal; that is quite a different matter. Here Hon'ble Members will see that the Punjab Government approached the Government of India.

The Hon'ble Sir George Lowndes :— My Lord, I must protest again at the Hon'ble Member solemnly quoting from the Regulation section of the Government of India Act which only applies to certain territories like the North-West Frontier. It has no application whatever to the Punjab, to Bombay, to Bengal or to any of the major Provinces."

The Hon'ble Rao Bahadur B. N. Sarma :— There was a power I know by which the Presidency Governments were also empowered by Statute to approach the Government of India for aid where they felt the ordinary law was insufficient. My argument does not cease to have any force even if section 71 is inapplicable to this particular case. My argument is that whether the Regulation applies to this case or not, the new doctrine that martial law can be enforced by a Governor or the head of a province and people can be handed over to the tender mercies of the military who can frame new laws, new penalties and do anything they like the moment they feel that law and order cannot be temporarily coped with with the aid of the civil force alone, is entirely a wrong doctrine. My point was that the law takes note of these difficulties where the civil arm is insufficient and makes it an incumbent duty upon the military officers to help the civil. But in all these cases, prior to the actual proclamation of martial law the civil power would be responsible and the ordinary law would guide the courts in deciding the legality of the actions of men who have acted during that period. Now the constitutional writers who refer to the fundamental bases of martial law merely refer to the common basis of the power of the Crown to enforce order whether martial law is proclaimed or not. They simply say that necessity is the basis of martial law. Ordinarily therefore, even without the proclamation of martial law the civil power has got jurisdiction to arm itself for certain purposes to quell disorders, but only so much force as is necessary should be employed. Therefore, the fact that there is a common basis for the two does not, I submit, empower the executive Government to treat the two as exactly parallel and ask that the civil or the military officers who had exercised jurisdiction are entitled to seek the protection of an Indemnifying Act even before the proclamation of martial law. I would only suggest, if there be any difficulty about the fixing of dates, the words the enforcement of martial law may be used so as to cover any difficulty but I do not think that the real point would be met. But I throw out this suggestion to the Hon'ble the Home Member because on a previous occasion instead of the

words 'proclamation of martial law' he accepted the words 'enforcement of martial law'. Of course whether the words 'enforcement of martial law' would cover a particular case will be dealt with by the Tribunals when the cases come up."

The motion was put and negatived

The Hon'ble Sir William Vincent — "My Lord, I move 'that in clause 2 for the words 'the commencement of this Act' the words 'the 26th of August 1919' be substituted'

"My Lord, when I moved for leave to introduce this Bill, this clause which extended the period during which special protection was afforded to our officers up to the commencement of the Act, was the subject of justifiable criticism. Since then I have again looked up the dates on which martial law was actually proclaimed and the dates on which it was withdrawn in the different areas. The dates on which it was proclaimed vary from the 13th April to, I think, the 22nd of April. The dates on which it was withdrawn vary from the 28th May to the 28th of August. I ought to explain, however, that after the 11th of June martial law was enforced only in railway lands in the Punjab, and that it was enforced there only by reason of the military requirements during the Afghan campaign. It was then obviously of paramount importance that military operations for the transport of troops and munitions should not be impeded by any disorders on the railway or by any interruptions of communications.

"The areas of the Punjab in which martial law was at the time in force were disturbed areas, and there was considerable risk of communications being interrupted if we relaxed military control of the railways. For that reason martial law was continued in the railway areas only up to midnight of the 25th of August this year, and that date has therefore been fixed upon now as a convenient date up to which the special protection afforded to our officers should be extended."

The Hon'ble Rao Bahadur B N Sarma — "If this amendment is accepted my amendments entirely fall to the ground, because the amendments I have suggested, are that the operation of this Bill should be confined to the 23rd of April. The reason why I suggested the 23rd April was that, as far as I could gather from the Press Communiques which were quoted in the book 'Punjab Disturbances,' the disturbances ceased on that date. I see that there was real trouble with regard to railway and telegraph communications, wires being cut and so on, until about the 21st of April. I pointed out on a previous occasion that both the Communiques of April 22nd and May 2nd showed that the Province had quieted down, although it may be as a matter of precaution the military were there to see that no further disturbances broke out. The following Communique was issued — 'Lahore April 22nd, situation well in hand and reports of the districts contain no disturbing items except cutting of telegraph wires near Chakki bridge, Kangra District'."

And then a Communique of May 2nd gives a list of all the occurrences with reference to the cutting of wires and the derailment of trains and so on and as far as I could gather the period that this covers is up to about the 21st of April. Later on, the Communique states :— An account will subsequently be published of injury which has occurred since 21st April but the operations of martial law had by that date already begun to have their effect and subsequent interruptions were comparatively few.

I shall proceed on the basis that martial law had this effect even assuming for argument's sake that there were a few interruptions later on.

"I have stated already the fact that martial law can be legally enforced only so long as there was necessity therefor and not one moment longer. It would be a usurpation of absolute power an exercise of lawless law if it is kept one moment longer. I realise that you may have to keep the force active in order to guard against a further recurrence of events, but my submission is that that would have to be done under the ordinary law of the land and martial law proper would cease to have operation the moment the disturbances are quelled and that is a very important doctrine to maintain in a country like India, because the executive are not really controlled by the Legislature and it is necessary that they should be chary of any attempt to keep these lawless laws in operation one minute more than is absolutely necessary. I submit that any action that might have been taken by the Government subsequent to that should be considered as having been done under the ordinary law of the land, that is under the civil power and should not be brought within the jurisdiction of the military courts. It is only for that purpose that I have brought in this amendment that martial law should, as martial law be considered to have ceased on the 23rd of April for the purposes of this Bill."

The Hon'ble Sir William Vincent :— I am glad at last to obtain an admission from the Hon'ble Mr Sarma that up to the 23rd of April there was serious disorder because for sometime in this Council a definite attempt was made to make out that nothing occurred at all but a little local rioting which was not of a serious character.

The Hon'ble Rao Bahadur B N Sarma :— May I say I did not agree with the proposition ; I assume it was so." —

The Hon'ble Sir William Vincent :— The Hon'ble Member may now use the word assume. What he did do was to admit the fact and it is a great advance on previous statements. The Hon'ble Member went on to suggest that, at any rate this violent form of disorder had ceased on the 23rd April. But, my Lord, I drew attention just now to the position of the Hon'ble Member in this matter. He did not wish clause (2) to take effect from the date on which the disorder began. Then he said No, you must stick to the date of your proclamation. But when it is a question of determining the period during which protection by the Act should be afforded he will not take the date on

which the notification withdrawing martial law was issued. He says, 'No, you must come back to the actual facts, irrespective of the date on which martial law was withdrawn. And I maintain there was no disorder after the 23rd.' Well I suggest to the Council that this is not reasonable. Responsibility for declaring martial law rested with the Government of India, acting on the advice of the Local Government and I read to this Council the telegram upon which we acted. The position then of our officers was this, they were aware that martial law was in force, they were, therefore, acting under orders. Provided that they acted *bona fide* and in a reasonable belief that their action was necessary, are they to be deprived of protection because Members of this Council may say the Government continued martial law too long, or are they not entitled to plead 'We were acting on the orders of the Government as set out in notifications which had been issued in the Gazette'? I want the Council, however, again to remember that we do not claim the protection of those men if they have acted *mala fide* or improperly, it is *bona fide* action taken in a reasonable belief that it was necessary alone that is protected. Now is it much to ask the Council to protect such men for such action during a period while the Government of India themselves rightly or wrongly declared that martial law was necessary? That is the point that I want to make to the Council. My Lord, it is often assumed that directly the military authorities have quelled the open disorder and disturbances with which they are called to deal, they must at once abrogate their authority to the civil authorities. I do not know how far that is good constitutional law, but there is good authority for the proposition that the actual presence of violent disorder is not essential to the continuance of martial law, and this has been laid down by no less an authority than Pollock, when he says 'that the absence of visible disorder and the continued sittings of the court even are not conclusive evidence of the state of peace.' There is another well-known case on the point from India in which, although the courts had been open for six months, the Privy Council held that the seizure of property by the military authorities on the plea that martial law was in force, was perfectly justifiable because the war had not at the time ceased. Further, as a matter of common sense, the fact is that once you have established martial law to quell an open insurrection, it would be the height of folly, and, I think Hon'ble Members of this Council will agree with me, it would really be the height of folly to abrogate it unless you have some reason to believe that the civil authorities could control the situation if martial law was removed. If you thought that the position was such that the military authorities would have immediately to be called in again, it would be idle to stop martial law or make over control to the civil authority. Such conduct would be doubly unwise on an occasion like the present, when we were at war with a power on the frontier in close proximity to the Punjab. The date I propose for insertion in the clause, the 26th of August 1919, is actually the date on which the last notification withdrawing martial law was issued by the Government, and that is the reason for fixing that date in the Bill."

(After the Hon'ble Sir William Vincent had finished speaking, the Hon'ble Pandit Madan Mohan Malaviya rose);

The President — Order, order. The Hon'ble Member has replied "
The Hon'ble Pandit Madan Mohan Malaviya :— I was going to ask
your Lordship whether I was entitled to speak because the Hon'ble Mr
Sarma

The President :— You should have taken the opportunity of speaking
immediately after the Hon'ble Mr Sarma.

If this amendment of Sir William Vincent is carried it will involve the
rejection of all amendments down to amendment No. 22

The motion was put and agreed to

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord I beg to
move—

That in clause 2 for the words "provided that such officer or
person has acted in good faith and in a reasonable belief that his
action was necessary for the said purposes" the following be sub-
stituted :—

Provided always, that the indemnity hereby granted is granted
upon this supposition and condition that all such acts, matters and
things shall have been done *bona fide* necessarily and properly and
without needless severity in furtherance and extension of the objects
for which martial law was proclaimed as aforesaid.

My Lord in speaking to a similar amendment earlier in the debate I
drew attention to the fact that I have taken the language of this amendment from
the Act of St Vincent. My Lord, in this particular amendment I have intro-

†The Hon'ble Mr Sarma :—

18 That in clause 2 for the words "and before the commence-
ment of this Act" the words "up to the 23rd April 1919" be sub-
stituted

The Hon'ble Mr Sarma —

19 *If amendment No 18 be rejected.* That for the words "and
before the commencement of this Act," the words "until the
suppression of the disorders" be substituted.

The Hon'ble Mr Sarma —

20 *If amendment Nos 18 and 19 be rejected.* That in clause
2 for the words "and before the commencement of this Act," the words
"during the continuance thereof" be substituted

The Hon'ble Mr Sinha :—

21 That in clause 2 for the words "from on or after the 30th
March to this Act" the words "during the period when martial law
was in force" be substituted

The Hon'ble Mr Malaviya :—

22 That in clause 2 for the words "on or after the 30th of
March, and before the commencement of this Act" the words "during
the continuance of martial law" be substituted.

duced four words which are not to be found there, namely, 'and without needless severity.' I submit, my Lord, that it is desirable that we should substitute the amendment which I propose, in order that it might be possible for those who have suffered to have redress of their grievances. This is a measure which is being passed without the report of the Committee of Inquiry which has been appointed being laid before this Council. That imposes upon this Council the duty of more closely examining the provisions of the Bill. My Lord, if the Bill is passed as the section stands, I submit it will be very difficult for any person who has been damaged or injured by the operation of martial law to obtain a redress of his grievances, and in support of the view which I have submitted to the Council, I would invite attention to the debate that took place in the House of Lords in 1818. An Indemnity Bill was to be introduced there but before it was introduced a Committee of Inquiry had been appointed and had reported. In introducing the Bill the Duke of Montrose claimed that it was a corollary from that which had preceded it, namely, the suspension of the Habeas Corpus Act, and he urged that an Indemnity Bill was a necessary consequence of the suspension of that Act. This is the view which has been urged by the Hon'ble the Home Member and the Hon'ble the Law Member. We have been told repeatedly that an Indemnity Bill was an inevitable consequence to the introduction of martial law. Here, my Lord, what the Premier said on the discussion which was raised by Lord Lansdowne was that—

'after such a report as that presented to Their Lordships by the Committee, a Bill of Indemnity seemed to follow as a measure due in justice to those who had been entrusted with the difficult task of carrying the act of suspension into execution.'

And he said —

'The Government were anxious to lay all the information with respect to their conduct before the Committee of the two Houses of Parliament in order that they know how they exercised the powers entrusted to them generally and particularly, and judge from that how far they were entitled to such protection as they now came forward to apply for. They did not ask for it as a necessary consequence of the suspension of the Habeas Corpus Act, but on the ground of the belief expressed by the Committee that the powers committed by Parliament to their discretion had not been abused. That and that alone was the ground upon which they stood before Parliament and the country. The Bill did not follow as a matter of course. The conduct of Ministers had been referred to a Committee. From the report of the Committee it appeared that all the detentions which took place under the suspension were fully warranted by circumstances and, if Their Lordships had any confidence in that report, they must in justice and in fairness grant the protection the Bill now proposed.'

Now my Lord let us see how these remarks have bearing upon the proposal before us. Here martial law was proclaimed at a time somewhere between the 13th and 15th of April. This was continued up to the 1st of August. There have been many protests, many representations to Government as to the continuance at any rate of martial law was not justified, and it was on that ground that one of your Hon'ble Colleagues laid down the rein of law. Now my Lord the Government have shown the wisdom the justice of appointing a Committee of Inquiry to consider for far these matters, the complaint was justified or well founded. That Committee of Inquiry has not yet met. The complaint, the allegations to which I draw attention are to be laid before that Committee and the Committee has to make its report. Assuming that the Committee come to the conclusion that the introduction of martial law was justified, the next question for them to consider and answer would be whether its continuance was justified and if so, up to what period of time. I use every intention of every single individual—and I understand the number was 1,000 of those who are at present in jail.

The Hon'ble Sir William Vincent — My Lord, may I rise to a point of order to say which is relevant to the particular amendment before the Council.

The President (to the Hon'ble Pandit) — Will you show me how it is relevant.

The Hon'ble Pandit Madan Mohan Malaviya — In this way my Lord, every day. It is relevant to show that the language used in this section should be as I suggest namely that only acts done *bona fide*, necessarily and properly and without needless severity should be indemnified. The object of my remarks is to show to your Lordship that it is yet a question for the Committee to consider whether the continuance of martial law and the detention of so many prisoners who have been detained in jail was necessary whether it was proper and whether it was carried out without undue severity during the period up to which this martial law existed.

(The Hon'ble Sir William Vincent here rose again)

The Hon'ble Pandit Madan Mohan Malaviya — May I finish my remarks; I am explaining the reasons why my speech is relevant to the amendment.

The President — I hope you will give me some better reasons, because at present, I am not satisfied."

The Hon'ble Pandit Madan Mohan Malaviya — I am giving my reasons. It is for you, my Lord to judge whether they are right or wrong. What I submit is that there are numerous persons who have been detained and who are undergoing imprisonment. In the case of many of these persons, they desire to be brought to test the validity of the detentions. If the indemnity is

granted in the general terms in which it is proposed in the Bill before us, it will be a very difficult thing for them to have a chance of proving their case. If the words which I suggest are substituted, namely, that it is only those acts which have been done *bona fide*, necessarily and without needless severity, that it is only such acts which will be indemnified, then, I submit, they will have a better chance of having redress of their grievances. That is the reason of my amendment.

The President —“If you confine your remarks to the matters and things that have been done *bona fide*, necessarily and properly, and without needless severity, you will be in order, but you will not be in order if you travel outside the discussion of those words.”

The Hon'ble Pandit Madan Mohan Malaviya —“Thank you, my Lord, I shall so confine myself.”

“My Lord, from the statements laid on the table by the Hon'ble the Home Member the other day in answer to some of my questions, the Council will have seen what a large number of persons has been kept in imprisonment and I submit that for them it will be easier to prove that certain acts were not done *bona fide* necessarily and properly and without needless severity than it would be for them to prove that certain acts were done in good faith in a reasonable belief that those acts were necessary. For these reasons, I commend this amendment to the consideration of the Council.”

The Hon'ble Sir George Lowndes —“My Lord, this amendment has really been discussed over and over again, and I have explained why we use the words ‘acts done in good faith and in a reasonable belief that they were necessary.’ It is no good my explaining them any more. If I explained the intention fifty times, the Hon'ble Pandit would not understand. There is no one so deaf as he who will not hear. The Hon'ble Pandit agitated the Act of St. Vincent, which is, I think, going back to an ancient and if I may say so, an unimpeachable precedent. If the Hon'ble Pandit prefers the British Statutes let us by all means go back to the precedent of 1780 under which all acts which were done for the suppression of rebellion were to be validated. That is the former adopted there. If the Hon'ble Pandit thinks that it has the sanction of time, I am quite willing to follow it. We have tried to put before the Council a more modern formula and a reasonable limitation of both validation and indemnity by the clause proposed in this Bill. If the Council thinks otherwise, by all means let us go back to the beginning, not to the St. Vincent Act which is hardly a very good precedent for this Council to copy—let us go back to the British Statute of the 18th century. I have explained over and over again why we have adopted the drafting which has been adopted in this Bill. If the Hon'ble Pandit objects to it, I submit the Council could better do so in some other sort,

The motion was put and negatived.

The Hon'ble Rao Bahadur B. N. Sarma:—My Lord I move that in clause for the concluding word "it is hereby declared" the word "the provisions of this Act shall apply thereto" be substituted.

It is a formal amendment which I have moved, that if there be any proceeding already pending it should be open to the plaintiff to show that the officer did not act in good faith and in reasonable belief and I do not think the Hon'ble Member intend that an action should be brought without giving the party an opportunity. If any such proceeding is instituted before the passing of this Act as I think very well it is the reason why I have brought forward this amendment. It is a formal amendment.

The Hon'ble Sir George Lowndes:—My Lord again I am afraid Government are unable to accept the amendment. The plain and simple words are it is hereby discharged that is to say which have been used in the Acts which we have copied—the South Africa Acts and others. The Council may also be interested to know the wording proposed in the Indemnity Act which is either now before Parliament or will very shortly be. It is a general Indemnity Act practically for the whole Empire in respect of things done during the war. The actual words which we have adopted are to be found in this the most recent piece of drafting available. The words there used are "If any such proceeding has been instituted whether before or after the passing of the Act it shall be discharged and made void." We only go as far as discharged; we do not think it necessary to put in the words "made void." I am not discussing the merits of the clause. I am only pointing out that we have followed the most modern form available.

The Hon'ble Rao Bahadur B. N. Sarma:—My Lord, if the Hon'ble the Law Member had told me that if there be any proceeding instituted it would be governed by the provisions of this Bill and that the party would be entitled to show that the officer acted in bad faith or without reasonable belief, I would have been content. There is no use telling me that there are other Acts in which similar words were employed and that we are only following the modern drafting. The question is as to what by the use of this very wide language is intended. I do not think that it was the object to have all actions discussed apart from their merits, and therefore I brought in this amendment."

The Hon'ble Sir George Lowndes:—My Lord may I give the Hon'ble Mr Sarma the fullest assurance that that is the intention. It is, I think, clear that that is the meaning of the words and nothing more."

The motion was put and negatived.

The President —“ The next three amendments are identical. The one to be moved by Mr. Sarma, the second* by Mr. Malaviya, the third by Mr. Sinha. The fate of the three will be decided upon the first ”

The Hon'ble Rao Bahadur B. N. Sarma —“ My Lord, I move in clause 3, the words from ‘and all action’ to the end of the clause be omitted. I did not intend to move this amendment if my amendment ‘reasonable belief’ and about limiting the operation of this Bill to the period covered by the martial law proclamations had been accepted, because I felt that during that period this presumption in respect of acts done by officers should be raised, namely, that they had acted in good faith, and it would be for the other party to show that the acts were not done in good faith, and all the precedents are in favour of that proposition. I need not go over the ground again covering the period before the actual proclamations and after the proclamations, according to some others, had ceased. We cover the incidents at Amritsar and Gujranwala and other places which we feel justified in the extension of this presumption in favour of the officers. Those are the grounds on which I rely for asking that these words should be deleted from this clause.”

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, I will only say a few words and two opinions to what has been said by Mr. Sarma in support of this amendment. We urge that the words which we have indicated should be omitted so that the onus of proof will not be thrown upon the plaintiff or complainant, to prove that the person who assailed his honour or liberty did not act in good faith and reasonable belief. Now, my Lord, in conformity with the Statutes of Parliament and the English opinion I will cite two weighty opinions on the question —

“ When the matter was being discussed in the House of Commons, Mr. Stuart Mill said —

“ There may be a public necessity in the case of rebellion requiring that certain acts not justified by the ordinary law of the country should be done, but these acts should be acts of suppression and not of punishment. Now a point which has not been noticed and to which I attach the highest importance is this—that in a case of public necessity those who act upon it, and do so under the supposed necessity that which they would not ordinarily be justified in doing should be amenable to the laws of their country for so doing. As in the case of killing any person in self defence so in

*The Hon'ble Mr. Malaviya —

26 ‘That in clause 3 the words from ‘and all action’ to the end of the clause be omitted.’

The Hon'ble Mr. Sinha —

27 ‘That in clause 3 the words from ‘and all action taken’ to the end of the clause be omitted.’

the case of putting any person to death in defence of the country the person who does it ought to have the onus thrown upon him of satisfying the ordinary tribunals of the country that the necessity existed.

What therefore we say does not exist and ought not to exist and which if it does not exist we should do our utmost to put an end to is the idea that any proceeding such as a declaration of martial law can or ought to exempt those who act upon it from amenability to the laws of the country. We contend that the law of necessity of which nobody denies the existence would justify the executive in doing things, if no such thing as martial law had ever been heard of and that by using the term martial law you ought not to be able to get rid of all responsibility. We demand that the officers of Government of this country should not be able to escape or get out of the region and jurisdiction of the law; but that whatever they do, if it be against the law they should be compelled to justify. They must show the necessity which existed not to the satisfaction of a court martial merely but of the regular tribunals of the country.

Now my Lord I submit that this weighty opinion should have some value with the Government of India. This was the opinion of a philosopher a statesman and a legislator. Let me quote to Council the opinion of a Judge Chief Justice Cockburn. In discussing an Indemnity Act he laid down in unequivocal terms that it should be confined to acts honestly done in the suppression of existing rebellion and under the pressure of the most urgent necessity. The present indemnity is confined to acts done in order to suppress the insurrection and rebellion and the plea contains consequently the necessary averments that the grievances complained of were committed during the continuance of the rebellion and were used for its suppression and were reasonably and in good faith considered by the defendant to be necessary for the purpose; and it will be incumbent on the defendant to make good these averments in order to support his plea.

My Lord the Bill before us would make it incumbent upon the defendant support his plea and on the plaintiff the necessity of proving that the defendant had not acted in good faith and in the reasonable belief that his action was necessary for suppressing disorders. I submit that this is without justification and it is a pity to my mind that the Hon'ble the Law Member should have gone to the Legislature of South Africa for the clause which he has inserted in the Bill. I submit that we should adhere to the views expressed by John Stuart Mill and by Chief Justice Cockburn of leaving the onus on the person on whom it naturally and reasonably lies. Who can give evidence? The man who pleads good faith. Who can say he had a reasonable belief in a particular thing?

the plaintiff or prosecutor as the case may be. This being so the question arises whether the position which is embodied in this clause is a novel one incapable of being supported either by general principles or by precedent or is it a position which is justified by general principles as well as by authority. Now my Lord, in the very remarkable address delivered by him the other day when the Hon^{ble} the Law Member made a comprehensive survey of the constitutional aspect of martial law he cited precedent after precedent from various countries within the British Empire from which it was perfectly clear that whenever and wherever martial law had been introduced it had invariably been followed by an Indemnity Act. Hon^{ble} Members will remember that he cited the corresponding clauses in these Indemnity Acts in order to show that in seeking to enact clause 3 we were not making any new departure. In ordinary circumstances a reference to that speech would have been quite sufficient to meet the situation but on this occasion I propose with your Excellency's permission, to go a little further in order to establish three propositions. The first of these propositions is that the position which is enacted in the second portion of this clause in which already finds place in more than one of the Acts which have been passed by the Indian Legislature; the second is that it is in perfect consonance with the statutory rules of evidence as obtaining in this country and the third proposition is that it is justified by judicial authority. Now turning to the first proposition, as far back as the year 1850 an Act was passed by the Indian Legislature in order to protect Judicial officers in respect of acts which may have been done without jurisdiction but in good faith, Act No. XVIII of 1850. To section 1 of that Act I beg your Excellency's permission to refer. This is what is laid down—

No Judge Magistrate, Justice of the Peace Collector or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty whether or not within the limits of his jurisdiction; provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of.

Now my Lord, in a leading case on this section their Lordships of the Privy Council in a judgment reported in 2, Moore's Indian Appeals, at page 293, laid down the following principle. I am afraid I must correct myself. This rule was not based on this particular section but was based on the corresponding section in 21 Geo. III cap. 70 sec. 24. Their Lordships held that the section protecting the Provincial Magistrates in India from actions for any wrong or injury done by them in the exercise of their judicial offices does not confer unlimited protection but places them on the same footing as those in English Courts by a similar jurisdiction and only gives them an exemption from liability when acting *bona fide* in cases in which they have mistakenly acted without jurisdiction. Trespass will not lie against a Judge for acting judicially but without jurisdiction unless he knew or had the means

of knowing of the effect of jurisdiction, but now mark what follows 'and it lies upon the plaintiff in every such case to prove that fact.'

"Now, my Lord, the Hon'ble Pandit thought it was very extraordinary that the onus of proving the absence of good faith should be placed upon a plaintiff in a case such as this. Your Lordship will see that this is exactly what their Lordships of the Privy Council laid down in this ruling, *viz*, that it will be for the plaintiff to prove that the Magistrate acted otherwise than in good faith in cases of this description.

"Turning now to section 43 of the Police Act, No V of 1861, it enacts as follows —

'When any action or prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing, and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour.'

"That is to say, under this enactment the mere production of the warrant directing the police officer to do a certain thing will entitle him to a verdict in his favour and a suit against him shall be dismissed.

"Now, your Lordship will see that the provision which I have just read out is analogous to the first part of clause 3, and if we had stopped at the end of the first part, we would have been perfectly justified in doing so, because there is the precedent of the Police Act in its favour, but in the present enactment, we do not stop there, we go on to say that the act must have been done in good faith and so on. Therefore, it is perfectly clear that the present Act is justified by the precedent of the Police Act also.

"Turning, my Lord, to the Statutory Rules of Evidence as obtaining in India, it seems to me that it is unquestionable that the onus of proof as laid down in the clause under discussion is in perfect consonance with the provisions of the Evidence Act. Let me in this connection invite the attention of the Council to two facts. The proceedings instituted by the person against whom action has been taken will either be criminal or civil. Now in criminal cases, it is one of the fundamental principles of criminal administration in all civilised countries, that the accused must be presumed to be innocent until his guilt is established by the prosecutor so that the onus of proof lies in every criminal case on the prosecutor to establish the guilt of the accused. No authority is required for this. A B C of Criminal Law, but if the Hon'ble Pandit who, I believe, has given up practice for a large number of years, requires

an authority I will only mention section 101 of the Indian Evidence Act and invite his attention to illustration A below that section :—

A desires a court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime.

And the onus of proof lies on the prosecutor.

Now my Lord, turning to cases of civil proceedings, section 102 of the Indian Evidence Act enacts as follows :—

The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

That is the general principle laid down in the Indian Evidence Act regarding the question of onus of proof. Now if in a civil suit a plaintiff were to come into court and ask for damages against the defendant officer of Government on the ground of certain action done by that officer. It is obvious that if no evidence were produced on either side it is the plaintiff who must fail; his suit would naturally be dismissed if no evidence is produced on either side. And may I remind my three learned friends that this question is really concluded by authority. The case, which under these circumstances will be instituted, will be of the class of cases which are characterised as suits for damages for malicious prosecutions. It has been laid down by their Lordships of the Privy Council and by all the High Courts that even in cases where an accused person has been discharged or acquitted, whether in the original court or on appeal, when that person, in his own turn, comes into a civil court and asks for damages for malicious prosecution as against the prosecutor he must, in spite of his discharge by the Criminal Court establish three propositions. Firstly that he was innocent of the crime with which he was charged; secondly that the prosecution was malicious; and thirdly and this is the most important point to which I wish to invite the attention of the Council it is for the plaintiff to prove absence of reasonable and proper cause on the part of the defendant. That rule is obviously analogous to the rule which is embodied in the proposed clause. I need not cite in support of this position a long string of authorities which can be cited. It is sufficient for me to invite attention to only two leading authorities on this position. The Privy Council judgment in *Indian Law Reports* 25 Bombay 322 Judgment by Lord MacNaughton and the Calcutta High Court Judgment reported in *Indian Law Reports*, 28, Cal 591 Judgment of Sir Francis Maclean, Chief Justice. Therefore my Lord, I submit that, on the ground of judicial authority on the ground of precedent, on the ground of statutory rules of evidence, the onus is rightly placed on the plaintiff or the prosecutor in this clause when he comes into court either claiming damages or charging the accused person with an offence under the criminal law of the land and I submit, therefore that the

principle of our law laid down in this clause is not only not extraordinary, but is the rule which already prevails, and in consequence, we are not enacting anything new."

The Hon'ble Sir George Lowndes — "My Lord, this is not an amendment which Government can accept, and I am in some difficulty in dealing with it. My Hon'ble friend Mr Suma told the Council that he was willing to accept the position that it should be assumed that acts were done in good faith and were necessary until the contrary is proved in all cases of what I would call statutory law. But my Hon'ble friend would not apply the same rule to cases under non-statutory martial law. I am in a difficulty as to this, as I do not understand his differentiation between the two. Then came the Hon'ble Pandit who would not accept it at all. This is a case in which I am afraid the Vincent Act did not help the Hon'ble Pandit, and therefore we did not hear anything about it. The Hon'ble Pandit's argument was based on a passage which, I think, he quoted from a newspaper called the *Servant of India* referring to an argument by Chief Justice Cockburn, not as a Judge, I understand, but in a discussion on some Indemnity Bill of which the Hon'ble Member did not give us any particulars. As far as I know an Indemnity Bill on the lines of Lord Cockburn's argument was never passed by Parliament."

The Hon'ble Pandit Madan Mohan Malaviya — "It was as a Judge that that remark was made by Lord Cockburn."

The Hon'ble Sir George Lowndes — "I can carry it no further than the narrative in the *Servant of India* which I have before me. It refers to a remark by Lord Cockburn in discussing an Indemnity Bill. I know no more about it, nor, I think, does the Hon'ble Pandit."

The Hon'ble Pandit Madan Mohan Malaviya — "May I mention that it will be found in 4 Queen's Bench Division, which is where I think that case was reported?"

The Hon'ble Sir George Lowndes — "Again I say that, so far as I know, such an Indemnity Bill was never passed by Parliament. It was apparently a suggestion by an eminent authority as to what should be put into an Indemnity Bill, but the suggestion does not appear to have been carried into effect."

"I think the Council may be interested to hear a relevant clause of the general Indemnity Bill which is, I believe, now before Parliament."

"The clause provides, as our Bill does, for certificates that acts were done under authority and goes on to say that 'any such act matter or thing done by or under the authority of such person shall be deemed to have been done in good faith unless the contrary is proved'."

"That is one of the terms of the Imperial Bill now before Parliament, and our clause follows it very closely."

The Hon'ble Mr Rao Bahadur B N Sarma :— ' My Lord my Hon'ble friend Mr Shafi has obliged us by discoursing upon the rules of evidence and upon the previous history of enactments with regard to the onus of proof. I do not think anybody here need be told that the plaintiff or the prosecutor ought ordinarily to prove his case that the actions of the accused or defendant infringe upon some legal right some rule of law. That is what he has to do. But these general dicta are a little beside the point. What we are now concerned with here is that admittedly certain actions are in violation of the ordinary law of the land. Admitting that the question is whether we are to give protection to officers violating the law on the ground that their acts are to be presumed to have been done in good faith for the purpose of carrying out the objects of martial law. That is the real point. Therefore in the absence of an Indemnity Bill like this, the onus would really lie upon the person pleading good faith in defence. I will only quote one passage— A person who under martial law imprison or kills British subjects in India must if he is to escape imprisonment justify his conduct by proving its necessity.

Here what we say is, though as a matter of fact the act may not be necessary we shall presume that the officer believed it to be necessary and therefore we shall exempt him from punishment. Therefore I do not see how Mr Shafi's remarks will help us. The question is are we as a Legislature to raise this presumption in favour of all acts, or only some or in favour of no acts? I took an intermediate position. It was necessary under the circumstances in which this Bill was brought in for Hon'ble Members to contend really that, in the absence of a clear proof of necessity the onus should not be on the plaintiff, but even to an intermediate position objection has been taken by the Hon'ble Sir George Lowndes. Here we have two classes of cases; one class, in which martial law has been proclaimed and in respect of which there is some doubt. Then we have another to which the ordinary law should be applied and to protect which would be a violation of the constitution. Having regard to the facts which have been so far disclosed it would be a travesty of justice to presume good faith and reasonable belief in favour of certain officers in respect of some of the incidents which occurred before the 14th and the 16th April 1919. I suggested that therefore no presumption should be raised in respect of acts done before the proclamation of martial law and after the necessity therefore had ceased in the eye of the law. Of course here we are not arguing before Judges on the question of presumptions and technicalities, we are arguing whether the course suggested by the Government is expedient; whether it is politically right, whether it would not be a dangerous precedent, when we know as a matter of fact that those presumptions are not justifiable in many cases as far as our present information goes."

The motion was put and negatived.

The Hon'ble Rao Bahadur B N Sarma :— My Lord, I move that after the words and all action taken in clause 3 the following be inserted :— after

(A) be deemed to bar a full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein

Therefore one class of cases really goes out, namely those that are covered by the judgments of the Commissions appointed under the Martial Law Ordinances. I dealt at some length before with my objections to this part of the Bill and I shall not repeat them again. I shall try to summarise the various points on which I based my argument in asking the Council not to accept these convictions and sentences as being right and as deserving of confirmation. The point that was made by the Hon'ble the Home Member for bringing in a clause of this description was that *prima facie* these sentences might after martial law ceased be considered to be *ultra vires* and without jurisdiction. That therefore many persons might have to be released and inasmuch as inconvenient results would follow an enactment of this description I absolutely necessary in the interest of peace and order. Will the answer to that be two-fold. First of all you might bring up those offenders who the Government think are really guilty and deserving of further detention before the ordinary courts. The only question would be one of expense. They may be re-arrested and put in jail pending trial and the interests of peace and order would not suffer in the slightest degree. The only question would be as to whether public time and public money would not be wasted by pursuing such a course. Put shortly the point is whether on the balance of convenience we are to confirm these convictions following precedents or having regard to the special methods employed in the Panjab, we should insist upon the Government bringing up the cases again wholly or partially. Hon'ble Members will see that I have got another amendment to the effect, that, at any rate in cases not covered by the Indian Penal Code or any special or local law this clause should not be applied. The objections, my Lord are these. Assume that there was a necessity for martial law. According to many of us that necessity began first of all on the 14th or 16th and ceased about the 23rd. If the above view be correct, it was wrong both on principle and the dictates of sound policy for the Government to have established tribunals or passed any Ordinance on the 21st for the purpose of dealing with the disturbances. The question as to the interpretation and validity of these Ordinances, Nos. I and IV how far they are applicable and as to whether they are applicable in cases governed by the Bengal Regulation only are really before the Privy Council, but I submit on the question before the Legislative Council we are not hampered by considerations which might restrict the action of the Privy Council or of any duly constituted authority. The question, my Lord, is, was there any reason for the ordinary courts of the land not trying these offenders, and if special tribunals were rightly established, they not trying the offenders with the ordinary procedure observed, at any rate after the 21st? If Hon'ble Members turn to the statement of trials by summary courts and area officers in the districts of Lahore, Amritsar, Cusrawala, Gujrat and Jallapur

If it is said that all these convictions were late in the year, in May, June, July, and on later dates. It may be argued that the provisions of the Criminal Procedure Code were not in force when the ordinary courts are sitting, but the Hon. Mr. Justice, and all water have held that that is one of the criteria. The Hon. Mr. Justice, when they were administering justice ordinarily without a special provision, after the 21st. If they were administering the law after the 21st, it is not necessary for depriving the citizens of the protection of the procedure which was guaranteed to them by the Legislature, in enacting the Criminal Procedure Code and other law. My submission, therefore, is that there was a violation of the fundamental principle of jurisprudence and violation of the protection given by the Legislature, when courts were constituted which could set at naught the ordinary procedure. This is my first and strong objection to our ratifying the convictions. Of course, if there was a state of war, if it was absolutely impossible for any court to sit and try cases, then certainly it would have been foolish on my part to say that the strict procedure of the Criminal Procedure Code should be adhered to. Necessity knows no law, and if the ordinary law courts cannot administer the law, there is no use of complaining that they did not. But here that was not the state of things. The courts were sitting, the courts were administering justice, there was absolutely nothing, therefore, to justify the depriving the citizens of the protection of the ordinary procedure. It is true that courts of three Judges have been appointed, but the ordinary right of appeal has been taken away. That is my second objection.

“There is a third objection, my Lord, and that is this. As things stand, in some cases the evidence was not clearly recorded, in other cases there are no clear judgments, so that it is absolutely impossible in a large number of cases—I will not say in all—for the Legislative Council, the Government or any Judges who may be appointed, to consider as to whether these decisions were rightly come to. There can be no scrutiny, and therefore I submit as a matter of principle that there should be no confirmation of these sentences.

“Then, my Lord, there is another ground, and a stronger one. These martial law officers have issued various regulations the enforcement of which might or might not be justifiable during actual rebellion or the suppression thereof. But, I submit, it would not do for the Legislature sitting here deliberately to confirm sentences under martial law orders based on principles opposed to the ordinary notions of civilisation. The number of regulations apart from notices framed by these various officers and prescribing penalties was, I think, 15. Regulation 16 runs thus—‘Any person who contravenes any of the foregoing regulations shall be liable to trial by an officer authorised to dispose of an offence summarily under martial law, and such officer may sentence the offender to imprisonment, rigorous or simple, which may extend to two years or to fine not exceeding one thousand rupees or with both, and may also inflict whipping in addition to or in lieu of any other punishment which he is empowered to inflict.’ I need

hardly say that failure to *salute* a European discountery to a European officer and such like things had been made offences either by notice or by regulation. Therefore the point is that if by clause 3 you confirm the conviction—I know it has been confined only to cases where persons have been confined—if you confirm the conviction you necessarily ratify the legality of a provision which could inflict the punishment of whipping and other punishments upon any person guilty of any infraction of martial law. We are grateful to the Hon'ble the Home Member for confining clause 3 to cases of imprisoned persons but I would ask him to see whether we are not as a matter of fact in confirming the validity of these convictions, really ratifying Regulation 16 covering them all and convictions passed under regulations which cannot, I think be ratified by any Legislature. It may be that some of the regulations are perfectly unobjectionable; but here the officer in command went and multiplied martial law offences, created offences which were not known to the law of the land and under a comprehensive code of punishment a person could be whipped and imprisoned for any offence and in confirming the rule which inflicts the penalty you validate that rule that is my real difficulty. When the question of the amendment of the Army Act was under the consideration of this Council, I sought to move an amendment that the punishment of whipping should be abolished. His Excellency the Commander in Chief was so good as to sympathise with the object of my amendment.

The Hon'ble Sir George Lowndes — I rise to a point of order. I ask whether these remarks have anything to do with the clause of the Bill to which the Hon'ble Member has moved an amendment? It does not deal with convictions or the nature of the punishment; it only confirms sentences of confinement and nothing else."

The Hon'ble Rao Bahadur B. N. Sarma — That is my real difficulty and I think that is no sufficient answer to my question. I find that in case No. 159 a person was thrashed and he was also remanded.

The Hon'ble Sir William Vincent:— May I explain, my Lord, that this clause has nothing whatever to do with any sentence of whipping at all? I submit that the Hon'ble Member is out of order in attempting to create prejudice by bringing up this question of whipping."

The President:— The Hon'ble Member must confine himself to the clause he asks this Council to delete.

The Hon'ble Rao Bahadur B. N. Sarma — No one would be more glad if it were possible.

The President — It is certainly possible."

The Hon'ble Rao Bahadur B. N. Sarma — I shall then treat it as possible because I take it that both the Hon'ble the Law Member and the Home Member

do not want to uphold the legality of that rule. It may be legal or it may be illegal, that is just the point I was driving at. My real difficulty was that you would be indirectly ratifying that rule inasmuch as there were cases in which persons were remanded to custody and the punishment of whipping to which I was alluding is provided for in the general penal clause. I know that any observation made by my Hon'ble Member in the course of the discussion would be absolutely irrelevant for the purpose of interpreting the Act when it comes up before the law courts, but I do not think that there is much use carrying the discussion further on this point.

"Then my Lord apart from that clause I would ask this Council to bear in mind that various offences have been created such as selling foodstuffs, milk, etc. above controlled rates and so on, punishable in the same manner, and the preamble (paragraph 3) was not limited in its operation as is clause 4 of the Bill. Of course it may be said that the operative part of an act is the thing that matters, and it is a perfectly sound argument, but I know the preamble is sometimes used in interpreting an Act. The preamble says—

'Whereas certain persons have been convicted by courts and other authorities constituted or appointed under martial law, and it is expedient to confirm and provide for the continuance of sentences passed by such courts or authorities'

"It is very general, and, therefore, there is danger in wide interpretation of this clause and Regulation 16. I am glad to be told at any rate that no such use could be made of it and that it was not intended to cover that part of the Regulation which provides for the punishment of whipping etc., I shall proceed my Lord, on that assumption. Then the question is as to the various offences not known to the law which had been created by these martial law orders, and the various terms of imprisonment ranging up to two years etc., inflicted under these. My submission is, would it be right for us as a Legislature to confirm these convictions without knowing more especially when we know as a matter of fact that all the materials are not before anybody on which the rightness and appropriateness of the decisions may be examined. I, therefore, submit that this clause should be eliminated, and the ordinary procedure should be resorted to."

The Hon'ble Sir William Vincent —"My Lord I hope Hon'ble Members will not conclude from what the Hon'ble Mr. Sarma has said, that this clause involves the admission of the principles to which he has referred. It does not. He referred, for instance, to the sentences of whipping awarded by the military authorities for certain offences. Whatever may be the merits or demerits of such a form of punishment, every Member who reads the clause which is now under discussion will see that there is no reference in it to whipping at all, and that it does not justify such sentences. I suggest further that the introduction of the racial question and the mention of this form of punishment were made in order to create a prejudice in the minds of the Council. I can conceive of no other reason for the mention of these matters. My Lord, I

have already in my opening speech explained to the best of my ability why we cannot accept this amendment. When martial law is introduced in a particular area, it is clearly necessary for the military authorities to have some means of enforcing their orders, of punishing summarily and speedily crimes directly connected with the disturbances and breaches of military regulations. I think that is a proposition that will be evident to everybody and as a matter of fact, I believe that when martial law is enforced the normal procedure is to constitute some form of summary courts; if indeed such courts were not constituted there would be no authority whatever which could enforce obedience of martial law regulations. Otherwise if the offender were sent to the civil courts they would say this is not an offence under the civil law or one of which we can take any cognizance whatever. Many of the men sentenced by these summary courts were as I explained to the Council before convicted of very heinous crimes, such offences as arson the possession of stolen property the destruction of railway lines, etc. I am very anxious not to repeat what I have said already. A large number about 90 per cent I believe—but I will not guarantee that statement—were tried before 1st class magistrates whose business it is normally to try similar offences. I have already given an undertaking to this Council, further—and I have already addressed the Punjab Government on the subject—that we will have the sentences of all these men revised by two High Court Judges. Further those who have been convicted of offences which are really a violation of military regulations only will be released by Government provided that the facts found by the court are not such as to justify a conviction for an offence punishable under the ordinary law. I do not know if I make myself quite clear. There are a certain number of offenders who have been definitely convicted under various sections of the Indian Penal Code. There is another class of offenders who have been convicted of breaches of military regulations. In some of the latter cases the facts found would justify the conviction of these men under the ordinary criminal law. We have cases, for instance, of extortion; one man was convicted of extorting money from a townsman on threat of giving certain information to the Police. This is a conviction that might well have been had under section 384. There is another case of indecent assault on a woman in which the conviction was recorded as a breach of military regulations; then we have cases of injuries done to railways and telegraphs. In such cases although the convictions have been recorded as breaches of military regulations, these records will only be revised in the ordinary way. Where, however the offence consists of violation of military regulations and the facts found do not constitute an offence under the ordinary law it is the intention of the Government—I gave the undertaking before and I give it again—to release the men immediately. I hope that will go some way towards Mr. Sarma. But the amendment he proposes goes a great deal further than this, and would mean that none of these sentences of imprisonment should be validated at all. My Lord, I do not know how the military Commander can do his duty without these sentences. If

anybody is whipped a large section of the public at once protests. 'what a scandal, what a barbarous thing?'

"What then is to be done with these offenders if they are not to be imprisoned or whipped? Timing would not meet the circumstances of many cases. I have explained that Summary Courts were absolutely necessary and that proceedings in the ordinary courts would in cases in which speedy measures were necessary be an impossibility. Where martial law has been in force it has been the practice to constitute these courts, and it has been the practice to validate the sentences and the normal procedure to go very much further than the Bill which we have under consideration. Here, for instance, is the South Africa Act of 1915 which has been constantly quoted. It runs —

'The several courts martial and military and special tribunals constituted and convened by or on behalf of the Government or its officers during the period aforesaid for the trial and punishment of persons guilty of treasonable, seditious or rebellious conduct or of persons subject to military law shall be deemed to have been constituted in accordance with law, and the several sentences are hereby confirmed.'

And goes on —

'Every person confined in any prison, gaol, lock up, or in any other place whatsoever under and by virtue of any such sentence aforesaid shall continue liable to be confined therein.'

"The same provisions will be found in both the older South Africa Acts. In one of them there is a definite reference to offences which really consist of a breach of military regulations, the very class of offences to which the Hon'ble Member made a reference. Similarly, the Imperial Bill, which has now been quoted, says —

'Any sentence passed, judgment given or order made by any military court (other than a court martial constituted in pursuance of any Statute) in connection with the present war or by any court established for the administration of justice within any territory in the occupation of any of His Majesty's forces during such occupation or after such occupation has determined until the Court has been abolished or superseded by such lawfully constituted authority as may hereafter be established for the administration of such territory shall be deemed to be and always to have been valid.'

In asking the Council to adopt this clause we are not therefore departing from the normal procedure. It was, however, suggested in another part of the argument of the Hon'ble Mr. Sarma, if I understood him aright, the point raised was that the ordinary courts were sitting and it was therefore improper to resort to summary courts — . . .

The Hon'ble Rao Bahadur B. N. Sarma — "You could for the sake of the convenience of the administration multiply the officers, but the procedure would be the ordinary one."

The Hon'ble Sir William Vincent:— That is much the same thing but in any case wherever military courts of this character have been constituted it has been the universal practice I think to adopt a summary form of procedure. In fact this is obviously necessary if justice is to be administered quickly. In many cases where martial law has been established in the past, we know also that the Civil Courts have sat for the trial of ordinary offences concurrently with Military Courts specially constituted for the trial of offences connected with these disturbances. Finally before I sit down, I want to point out two results of the adoption of the amendment. One is that Government would have to release a very large number of criminals, dangerous criminals, on to the country. That would be extremely unwise and the second result would be that Council would deliberately put the Government in the position that they would be liable to act as for wrongful imprisonment brought by a number of men who have demonstrated the desirability of the Statute in times of grave peril. That, I hope, the Council would not go to."

The Hon'ble Rao Bahadur B. N. Sarma:— My Lord, I am thankful to the Hon'ble the Home Member for his promise to release persons who were merely guilty of violation of martial law regulations and whose cases could not have been brought up under the criminal laws of the land. I think the proposition is well worth considering. But, my Lord, with regard to the question that would affect it would have a public peace if a large number of people are released I have already answered that they may be brought before the ordinary court. With regard to the case of indictment I still submit there is absolutely no objection on either side to what the ordinary courts were not all well to proceed for the ordinary procedure was not followed beyond the emergency military officer could not have done it. My reply to it, my Lord, is, that the courts specially constituted to try offences only on the ground of necessity might have followed the regular forms and would have followed the forms in a case where there was actually no rebellion. In the interests, my Lord, of persons who may have wrongly suffered as well as of the future, I think I must press this amendment."

The motion was put and negatived.

The Hon'ble Rao Bahadur B. N. Sarma:— My Lord, having regard to the promise we have received I shall not press the other two amendments on the agenda and I beg leave to withdraw them."

*The Hon'ble Mr. Sarma:—

32. That if amendment No. 3 is rejected the words "and shall continue liable to confinement until the expiration of such sentence or until released by the Government-General in Council or otherwise discharged by lawful authority" in clause 4 be omitted.

33. That to clause 4 the following be added:—

Provided that no person shall continue liable to confinement after the date of commencement of this Act unless he shall have been convicted and sentenced for some offence under the Indian Penal Code or some special or local law in force before the establishment of martial law.

The motions were by leave withdrawn.

The Hon'ble Mr. Sachchidananda Sinha —“ My Lord, I propose ‘that to clause 5 the following be added —

‘Such assessment by the said Judicial Officer shall be made pursuant to an inquiry conducted in the manner, so far as possible, laid down for the trial of suits in the Code of Civil Procedure.’

‘An appeal shall lie to the High Court against such order of assessment in the manner provided for appeals from orders in the Code of Civil Procedure, the order passed by the High Court being final.’

“ My Lord, this amendment does not touch at all even the fringe of the substantive provisions of the Bill. It only provides a machinery for the assessment being made, and as there is no provision of that character in this Bill I think, my Lord, this amendment might be adopted with a view to provide a machinery for the purpose ”

The Hon'ble Sir William Vincent —“ My Lord, the intention of the clause is to provide a summary remedy for persons who might consider themselves aggrieved owing to their properties having been commandeered by the military authorities. The Bill does not, as I understand, prevent a regular suit from being brought. Our intention is merely to provide a convenient remedy for the assessment of damages, and any one may seek redress in a law court. In those circumstances, if any person wishes to go to a law court and have a full trial, he may do so, but we do not think that it is desirable to prescribe the lengthy procedure of the Civil Court for an officer of the kind proposed. We do not either think it necessary to allow an appeal from proceedings of this character ”

The Hon'ble Mr. Sachchidananda Sinha —“ My Lord, with regard to that part of the question which refers to appeals, I am prepared to withdraw it. But I think there should be some procedure laid down, and I have added the words ‘so far as possible.’ I do not, therefore, insist upon the trial being conducted in strict accordance with the Civil Procedure Code. I am prepared to withdraw the second clause about the appeal, to which the Hon'ble the Home Member objects ”

- The motion was put and negatived

The President —“ I should have stated after Mr. Sarma withdrew his amendments just now, that amendment* No. 10 which stood on the agenda until these amendments were disposed of was of course dropped. It is consequential ”

*10 ‘That to paragraph 3 of the preamble the following be added ‘in certain cases and subject to the limitations specified herein below ’

The Hon'ble Sir William Vincent :— My Lord, may I point out that the same position arises with regard to an amendment of Mr Sinha also?"

The Hon'ble Rao Bahadur B. N. Sarma :— My Lord, I submit that this should be accepted because it refers to certain cases only. It refers to certain cases and subject to certain limitations only and those words I would like to be added to paragraph 3 of the preamble.

The Hon'ble Sir William Vincent :— If the Hon'ble Member wishes to move the amendment, I have no objection."

The President —(To Rao Bahadur B. N. Sarma) You move No. 10.

The Hon'ble Rao Bahadur B. N. Sarma :— I think that will clear the position."

The President — Yes, Mr Sarma is moving his amendment No. 10 which was held up until the other two amendments 32 and 33† were disposed of."

The Hon'ble Rao Bahadur B. N. Sarma :— My Lord, the Act deals with only certain cases, and it imposes certain limitations. Clause 4 deals with the cases only of persons who are actually confined in prison and in order to bring it into conformity with the other provisions, I propose that to paragraph 3 of the preamble the words "in certain cases and subject to the limitations specified herein below" be added. I therefore hope that this amendment will be accepted."

The Hon'ble Sir William Vincent :— My Lord, I may say at once that we have no objection whatever to the introduction of the words suggested by the Hon'ble Member if the insertion will please him, but they really do not make any difference in the effect of the Bill. As it will apparently gratify the Hon'ble Member I am prepared to accept an amendment, substituting the words "certain sentences" for the words "sentences."

The Hon'ble Rao Bahadur B. N. Sarma :— It is not a matter of gratification, my Lord but it is a question of some importance and I am glad that the Hon'ble the Home Member has accepted a modified form of my amendment.

The amended motion was put and agreed to.

The Hon'ble Pandit Madan Mohan Malaviya :— My Lord, I beg to move that in clause 6 sub-clause (b) be omitted and the said sub-clause be inserted as a new clause 7 and that to the said new clause 7 the following be added :—

"And on order made by His Majesty in Council on any appeal presented by any individual or individuals against any conviction

† *Vide* page 588.

or sentence passed by any tribunal constituted under martial law and acting in a judicial capacity or by Commissioners appointed under the Martial Law Ordinance, 1919 as to the legality, propriety or correctness of any conviction or sentence may be taken advantage of by any other person convicted by the tribunals or Commissioners afore mentioned though he may not have appealed against his conviction or sentence to His Majesty in Council, if the grounds upon which any order of His Majesty in Council is based are common to or govern the case of such other persons, and the Governor General in Council shall be bound to act upon the reasons underlying the said order of His Majesty in Council in all cases governed by such order, and the High Court of Judicature established in the Province shall on an application made to that Court for that purpose decide whether any particular case is governed by the rule laid down or reasons underlying any order of His Majesty in Council'

" My Lord the object of my amendment should be obvious to everybody who has followed the debates during the last few days over the Punjab affairs. There is a large number of persons who have been arrested, detained, tried, convicted and are undergoing sentences. A few of these have appealed to His Majesty's Privy Council. An appeal to His Majesty in Privy Council is not an easy affair, it involves much expenditure, much local help, and everybody is not in a position to do so. Even if the public do extend their help to some persons, as I am thankful to say help has been extended to a number of persons to have their cases brought before His Majesty in Privy Council, the number of such cases will, I fear, be small. There will still be a large number of persons who will not be able to approach the Privy Council. The cases that have been tried, many of them might probably rest upon some common ground. At any rate it is expected that the decision of His Majesty in Council about certain points will govern a number of cases, and the object of my amendment is that, where His Majesty in Council has considered the case and has expressed an opinion upon the matters involved in it, the benefit of that decision should be secured to such other persons who may have been tried by these martial law commissioners or summary courts and who may not have taken their case to the Privy Council. My Lord, I hope that this will commend itself to the Government because it would be anomalous and deplorable that when His Majesty in Council has expressed an opinion upon points which affect the cases of other persons, they should not have the benefit of that decision. I do not think the Government would wish to contemplate that situation. I venture to think that in this matter at any rate, the Government will be in sympathy with my amendment. The second clause which I have added, clause 7, lays down, in order to make assurance doubly sure, that the Governor General in Council should be bound by the

decision of their Lordships in the Privy Council in such cases and that they should be bound on receipt of the orders of His Majesty in Council in any particular case to take action on all such cases as may be affected by it. But my Lord we are all human and there is no knowing whether a decision of the Government of India will satisfy the persons whose right or interest may be involved and for that reason, as an assurance that everybody will have a chance of having the matter properly considered and decided, I have suggested that the High Court of Judicature established in the province should, on application made to that Court for that purpose, decide whether a particular case is governed by the rules laid down or the orders of His Majesty in Council. I hope the proposal will commend itself to Government."

The Hon'ble Mr Sachchidananda Sinha:— I should like to say one word my Lord in support of this proposal which seems to me a very reasonable one. Otherwise there will be great hardship entailed on a large number of people who cannot appeal to His Majesty in Council. Therefore people here should be given the benefit of a Privy Council judgment, if they move the High Court on the ground that the facts and circumstances in their cases are similar to those of the cases before the Privy Council and obtain a favourable order therefrom."

The Hon'ble Rao Bahadur B. J. Sarma:— My Lord, I have a similar amendment against my name. It is obviously just that if the grounds of decision upon which the Privy Council set aside a conviction are common, it should apply to similar cases, and the Government or the High Court should set aside those convictions and sentences too. Of course, if the ground on which the Privy Council set aside these convictions is a case of a technical character and not based upon merits, there is nothing to prevent the Government from bringing up the offenders before the regular courts for trial. Therefore the ground of convenience should not be for keeping those men in confinement, even though their cases may be really governed by the decision of the Privy Council."

The Hon'ble Sir William Vincent:— My Lord if Hon'ble Members will again read clause 6 of the Bill they will see that nothing in the Bill can affect trials by commissions. Sub-clause (a) of this clause runs as follows. Nothing in this Act shall apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919.

If Hon'ble Members will now turn to the amendment which is proposed in clause 6 by Mr. Malaviya, they will see that an important part of his amendment is entirely inconsistent with the sub-clause which I have just read. You cannot in one sub-clause of a Bill say that nothing in this Act shall affect trials before the Commissions, and in the next sub-clause go on to provide for such convictions and sentences. I do not know if I have made myself clear but it seems to me that, as a matter of drafting and of principle, this is impossible. We are particularly anxious, and have been most careful throughout

this Bill, to avoid any reference to these Commissions appointed under the Martial Law Ordinance, because we know that certain sentences from them are before the Privy Council on appeal, and it would be manifestly improper

The Hon'ble Pandit Madan Mohan Malaviya —“ My Lord, I do not want to stick to the actual wording of the amendment. If the Hon'ble Member will put it in a different form which will be acceptable, I shall be quite agreeable ”

The Hon'ble Sir William Vincent —“ I am aware of the habit of the Hon'ble Member of putting a motion in an impossible form and then asking me at the last moment to put it into proper form. Well, I cannot do it at this juncture, he should have thought of this before. But I shall be able, I hope, to some extent at any rate, to meet the object which he has in view. I was for the moment trying to point out to the Council that it would be entirely inconsistent with the rest of the Bill if this amendment, as it is worded, was passed by the Council, and I cannot possibly undertake at a moment's notice to alter the amendment into a form in which it could be accepted. I have already accepted one amendment from Mr. Sinha to day, and I am not at all sure that I was wise in doing so

The Hon'ble Mr. Sachchidananda Sinha —“ I can assure the Hon'ble Member he was ”

The Hon'ble Sir William Vincent .—“ It may however meet the Hon'ble Member and others here if I explain that if there is a decision by the Privy Council in any appeal before them and any appellant is acquitted on grounds which affect the conviction of other persons who have not appealed, we shall certainly examine the cases, and if we are satisfied that the reasons set out in the Privy Council's judgment apply to any cases of the persons under confinement here, we shall give effect to the principles enunciated by the Privy Council. It follows necessarily, that if the men who have appealed to the Privy Council are acquitted on grounds which would apply to other cases, those who have not appealed will receive the benefit of the decision. But I want the Council to remember that the position of the persons to whom this Bill applies is entirely different from the position of persons tried by the Commissions. These men were tried by summary courts appointed by the military authorities. The proclamation of martial law is a statutory authority vested in the Governor General in Council, I believe, and it seems to me that the validity of the sentences of summary courts depends upon entirely different grounds from those which form the basis of the decision of the Commissions. It is however quite possible that I may be wrong in this matter and, should the judgments of the Privy Council be decided on grounds which would indicate that the trial of these persons by summary courts was not justified, then certainly we shall have to take action to meet the decision of the Privy Coun-

cil. I hope that this undertaking will meet to some extent the wishes of the Hon'ble Member "

The Hon'ble Pandit Madan Mohan Malaviya — Will the Government accept the last provision that the High Court of Judicature established in the province shall on an application made to that Court for that purpose decide whether any particular case is governed by the rule laid down or reasons underlying any order of His Majesty in Council?

The Hon'ble Sir William Vincent — I did not deal with that point by error I ought to have done so. I am afraid the Government cannot accept this proposal. They do not intend to allow any appeal to the High Court from summary convictions by a military court. That is an entire negation of the principles on which martial law is administered. But I have given an undertaking as to the intentions of Government in this matter and if we do not carry it out there are many opportunities by which Hon'ble Members of this Council or any one else can make it incumbent on us to fulfil our undertaking.

The Hon'ble Pandit Madan Mohan Malaviya — My Lord my amendment does not suggest that the High Court should hear appeal from the decisions of summary courts. All that I ask is that the High Court of Judicature established in the province shall on an application made to that Court for that purpose decide whether any particular case is governed by the rule laid down or reasons underlying any order of His Majesty in Council. I wish the High Court to be empowered to deal with this on an application made to them and I think that Government might see their way to accept this much.

My Lord as to the assurance given by the Hon'ble the Home Member I am thankful for it. It is satisfactory so far as it goes, and I hope that the public may not as I fear the public may have reason to regret that what should have been incorporated in the Bill was merely accepted as an assurance and be disappointed again as they have been in the past. Your Lordship will remember the Council will remember that, in the matter of the Press Act, certain assurances were given by Government, but the public have had to complain that they were not carried out. Therefore I propose this for the consideration of the Government when I suggest that the wording of clause 6 might be modified. I was under the impression that the Hon'ble the Home Member had thought of some changes in the wording which he might accept. Well, my Lord the Bill is not to be referred to a Select Committee. The difficulty of drafting becomes very great and in view of that difficulty I am not surprised that the wording leaves much to be desired. But the principle of it being accepted as the statement of the Hon'ble the Home Member shows I hope the Government will accept the amendment as it stands "

The motion was put and negatived

The President — The rejection of that amendment will also dispose of Mr. Sachchidananda Sinha's amendment. No. 37.

The Hon'ble Mr. Sachchidananda Sinha. — "My Lord, I move that in sub-section 6 for the words 'against any person' the words 'against any person in Government, Civil and Military, or any other person' be substituted."

"My Lord, the only reason for this is that the Hon'ble the Home Member explained that the Government wanted to reserve to themselves the right of proceeding against any person, if that was necessary for the ends of justice. This amendment is intended to make that point clear."

The Hon'ble Sir William Vincent. — "My Lord, if there was anything in the amendment I should be very pleased to accept it, but it is really entirely unnecessary. It is the first time that I have ever heard that the word 'person' does not include a subject of Government."

The Hon'ble Mr. Sachchidananda Sinha. — "I wanted to be quite sure of this."

The Hon'ble Sir William Vincent. — "That is the advice I have received from the drafting Department."

The Hon'ble Mr. Sachchidananda Sinha. — "I beg to withdraw it, my Lord."

The motion was by leave withdrawn

The Hon'ble Rao Bahadur B. N. Sarma. — "My Lord, I beg to move the following amendment, 'that the following new clause be inserted as clause 7 —"

'This Act shall be in force till the Committee appointed by the Governor General in Council to inquire into the recent disorders makes its report and for a period of three months thereafter'."

"My Lord, I gave notice of this amendment to provide against a certain contingency. Unfortunately, that contingency has occurred. If my amendment that the Bill should be confined to what took place after the proclamation of martial law and during its continuance had been accepted, there might not have been very

The Hon'ble Mr. Sarma. —

*37. 'At the end of clause 6 add a new clause —

'Any person convicted and sentenced by a Court or other authority constituted or appointed under martial law and acting in a judicial capacity, including commission issued under the Martial Law Ordinances of 1919 shall have the benefit of any order in Council regarding the legality, propriety or correctness of any conviction or sentence in an analogous case or cases in so far as the grounds of such order or decision may be applicable to him

On application by any person convicted and sentenced as hereinbefore referred to, the High Court of the Province concerned shall determine whether the case of the applicant is governed by the decision of the Privy Council and pass such orders as it may deem fit'

much necessity for this amendment. I shall not repeat the reasons which I have already urged for the acceptance of this amendment now. All that I shall say is that we meet all the objects which the Government have in view by accepting this clause. The Government asked: are our officers to have the sword hanging over their heads until this inquiry is over? We have given them protection: nobody can institute any suit against them. We have also provided for the legality of all convictions and sentences during a long period. But if the Committee of Inquiry should furnish ample grounds on various questions, as to the necessity for martial law being proclaimed or as to the conduct of particular persons, high or low, before the martial law was proclaimed or after it was proclaimed. It may be necessary both for the Government as well as for this Legislature to consider the question as to what protection could be afforded to those officers and to meet those contingencies. We have thrown the onus in all cases alike upon the prosecutor or the plaintiff as the case may be. It may be that the Government or the Legislature would ask for a revision especially on the facts being ascertained by a public court of inquiry of the kind mentioned. Therefore I submit, there are ample grounds for meeting the wishes of the people by accepting a clause of this description. We protect the officers of the Government: we provide for the legality of these trials to a certain extent, but at the same time the Government have appointed a Committee of Inquiry at the request of the people. That Committee of Inquiry would go necessarily into the kind of measures which were adopted by the martial law officers or others for the purpose of suppressing these disturbances, and, I think, a report of that description would help the solution of the difficulty. It may be that the inquiry will show there was absolutely no necessity for it and in that case everybody would be satisfied that the action of the Government was right. I hope therefore that this amendment may meet with some luck."

The Hon'ble Sir William Vincent — My Lord, there are more cogent reasons against accepting this amendment than arguments of mere convenience. It is true that many of us would be averse from going through all this troublesome discussion on the Bill again three or four months later, but the real objections to this amendment are more deeply rooted, and, I myself am rather surprised that a gentleman who is a professional lawyer as I understand should have failed to realise that the passage of the Bill has absolutely no connection with the work of the Committee. The one principle upon which we have insisted and which has been accepted by this Council is, that the report of this Committee is an administrative matter; the Committee will inquire into the conduct of officers from an administrative point of view; their report will in any case only be considered by Government in deciding what the action of the administrative authorities is to be. This Bill deals with the question of legal liability of officers and others, and has nothing to do with the report of the Committee. Let us assume for one moment that the committee reported that a man was liable to censure or should be punished. Can it be supposed for one moment that that would affect his legal liability that the report can be put in as evidence? Nothing of the kind. The two subjects are entirely distinct; the one deals with the administrative aspect of the action taken,

and the other with the legal aspect of any case gone into by the Courts. It was for that reason that my Hon'ble friend, Sardar Sundar Singh, asked me whether, if the report of the Committee indicates that certain persons are liable to be censured, the Government would act on the report irrespective of the Bill, and I was able to give him an assurance that the passing of this Bill will not make any difference to that question at all.

"There is a further objection to the amendment, one of root principle, which has been discussed *ad nauseam* in this Council, it is this, that if the amendment were accepted our unfortunate officers would only obtain exemption from suit for a few months, and at the end of that time they would again become liable to suits (having had a short interregnum of peace), although they have acted *ex hypothesi* properly and *bona fide*. A very similar question we discussed in the opening debate, and if this amendment is pressed to a division, I really do not believe that the Hon'ble Member will now receive more than one vote in support of his proposal."

The Hon'ble Rao Bahadur B. N. Sarma — "My Lord, the Hon'ble the Home Member's arguments may be extremely convincing to him and to several others, but I may assure him that the matter does not admit of such a summary disposal. I never for a moment thought that the report of the committee would be evidence in any judicial tribunal, or that would necessarily completely govern the action either of the Government or of the Legislature. All that I said was that it would enable us to enact an Indemnity Bill that is suited to the occasion, which would satisfy the requirements of justice as well as the legitimate wishes of the people, while affording protection to those who really deserve it. We have had to proceed on assumptions to a very large extent in enacting this Bill. Ordinarily an Act of Indemnity would only follow martial law only if there was necessity for the enforcement of martial law. If an Indemnity Bill be not passed the questions whether there was necessity for the enforcement of martial law, whether there was a state of war, are questions of fact which would be adjudicated upon in a court of law. Therefore, we consented to the amendment moved by the Hon'ble the Home Member, because we felt that there were cogent reasons for an interim Act of this description. If there really was no necessity, then the question would stand upon the same footing as when the civil power takes the assistance of the military authorities for the purpose of protecting law and order. Of course, if the Legislature should still feel inclined to protect those officers even under those circumstances, it may do so, but it would not have much of a precedent in its favour. Therefore, my Lord, the decision of the Inquiry Committee would not be final and conclusive, but would help both the Government and the Legislature in arriving at sounder conclusions on questions of presumptions, on questions of fact, than they are in a position to do at present, when everything must be taken for granted one way or the other. Take, for instance, the actions about which so much reference has been made, on the 13th and 14th April. We are asked to presume good faith and reasonable belief.

Would it not be more satisfactory to have the explanations of the officers themselves, to have the evidence before us that they were justified in doing what they did? If they were justified then by all means protect them by a legislative enactment. Therefore my Lord it is not without very sound reasons that I have brought forward this amendment. What is the cry outside? What is the legitimate cry? It is that the Government have been hurrying through a Bill simply to protect their officers many of whom do not deserve it. It may be that the Government should do something to protect their officer before they can quite make up their minds as to what they should ultimately do. But my submission is that that should only be temporary and they should not ask the Council as they have asked by means of a majority to raise certain presumptions in the way they are doing; the Council might not have done it if they had the facts more clearly. That is the reason why I ask that this Bill should be of a suspensory character and I have behind me the opinion of very eminent men outside the Council who have been connected with the administration. There is no necessity of giving any names but they are people who are not likely to take irrational views of things. Therefore here is no question for professional lawyer or non professional men. Nobody could fall into the error that this committee's report would be evidence in any court of law or that we should necessarily act upon it. All that I said and say still is that we would have better material upon which we can proceed before enacting a measure of this description which is sure to create dissatisfaction everywhere and which has already created dissatisfaction.

The motion was put and is carried.

(8) —From Proceedings of Meeting held on September 25, 1919

The Indemnity Bill —(*concl'd.*)

The Hon ble Sir William Vincent —“ My Lord, I move that the Bill to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith, be passed, as amended by this Council. I think most Members of this Council are relieved at the conclusion of a somewhat long and troublesome debate, and I will not detain them long. The discussion of the Bill has necessarily involved references to subjects of considerable delicacy, upon which there is great feeling on the part of many Members of this Council, but nevertheless the Council may congratulate itself, on the whole, on the self restraint that has been manifested in the course of the debate. There was, however, great feeling, as I said, on both sides, and despite obvious efforts at times, it has manifested itself to a considerable degree. Nor can there be any doubt that both Europeans and Indians are deeply moved by the recent occurrences. I am glad that in spite of all this nothing has prevented the Council from arriving at a perfectly just appreciation of the requirements of the case, and that Members have recognised, generally speaking, that this Bill is a necessary measure which deals with principles, and not with individual actions. It is for that reason I believe that the Bill, which I have had the honour to move before the Council, has met with such general approval, and as I am speaking on it, I think that the Council might like to know the views of one who has taken a great interest, both in these disorders and in the measures which have been taken to suppress them. I refer to Mr Gandhi. There are different opinions about this gentleman. Some look on him as a dangerous crank with an extraordinary amount of that Scotch quality, a good conceit of himself. There are others, persons whose opinion is equally entitled to great weight, who believe him to be a man of saint-like character, selfless disposition and almost superhuman insight. Mr Montagu himself in a recent debate described him as a man of the highest motives and the finest character, a man who his worst enemy, if he has any enemies (he is very lucky if he has not), would agree is of the most disinterested ambitions it is possible to conceive. Well, my Lord, it is probable that a correct estimate of the character of Mr Gandhi would lie between these various extremes, but I hope that the Council will not in any way acquire the impression that in offering these observations I am seeking to convey my own opinion about him, or the opinion of the Government. An expression of opinion would be improper. At the same time, there are certain characteristics in Mr. Gandhi which all will admit. He is not in any way predisposed to favour the policy of Government. That is certain. He has also got what is not very often found in this country, the full courage of his convictions. If he thinks any thing he never hesitates to tell either the Government or any one else what his views are, and for that reason, I think, it would interest the Council to hear

what a leading Indian of this position and character thinks about the Bill. So far as the question of indemnity is concerned Mr. Gandhi would go very much further than we have done. He does not refer at all to *bona fide* or reasonable belief. He assumes these and says—I would therefore say that rather than complain that the Bill has been prematurely brought in we should give our best attention to the provisions of the Bill. Thus, for instance we would allow a provision to the effect that such officers as may have given orders of firing shall not be criminally liable for murder or civilly liable for damages. Then he goes on to say that such officers, where in fault should be dealt with administratively.

Members of this Council will see that our Bill does not go nearly as far as that. In a later letter in which he answers various persons who have attacked the Bill he writes as follows—I am quoting from 'Young India' of the 20th September a paper which I believe is now controlled by Mr. Gandhi.

I must respectfully dissent from the view that such a Bill can only be properly passed after a Commission has reported. I venture to submit that the Bill as published is almost harmless and it is a Bill we shall be bound to pass as it is even after the Commission has reported.

My Lord that opinion, take it for what it is worth, I think, supports the view which the Government has put forward throughout this debate. The Hon'ble Mr. Madan Mohan Malaviya has repeatedly referred to Mr. Gandhi as an authority of the very greatest weight to whose views the deepest consideration is due. Well, my Lord may we hope that on this occasion he will concur in the views of the authority whom he so much reveres. At any rate, I put it to the Council that these letters are of interest and that they support the conclusions which we have always advocated in this Council, that this Bill is a necessary and harmless measure which in no way forestalls the report of the Commission."

The Hon'ble Pandit Madan Mohan Malaviya — My Lord, I regret I must oppose the motion that the Bill as amended be passed. I do so with all the responsibility which I feel rests upon me as an elected Member of this Council, and I do so after having heard the words of my esteemed friend Mr. Gandhi, to which reference has been made by the Hon'ble the Home Member.

My Lord the Bill has to be considered on its merits. Opinions for and against it have no doubt to be weighed and the opinion of Mr. Gandhi is entitled to weight. I am glad that the Hon'ble the Home Member has paid a compliment to Mr. Gandhi and advised us to pay great heed to his opinion. I hope, after reading this opinion of Mr. Gandhi he will advise the Govern-

ment of India, in the first instance, not to delay cancelling the order which they have maintained against Mr. Gandhi for the last many months, confining him to the Bombay Presidency, and, secondly, I hope the Hon'ble the Home Member will advise the Punjab Government and the Delhi Administration to follow suit. My Lord, that should be the least evidence of the sincerity of the appreciation of the Hon'ble the Home Member of Mr. Gandhi's position.

"Coming to the question before us, I attach, as I have said, great weight to the opinion of Mr. Gandhi, but there is a higher authority to which I have to bow, and that is the conscience that sits within me, and that conscience tells me that the Bill ought not to be passed as it stands.

"Now, my Lord, I will make my position clear, and as briefly as I can. Your Lordship and the Council know, the whole country knows, that the Bill as it was drafted rested on the preamble wherein it was stated —

'Whereas owing to the recent disorders in certain districts in the Punjab and in other parts of India, it has been necessary for the purpose of maintaining or restoring order to resort to martial law'

"My Lord, that phraseology was in conformity with well established precedents. But our complaint was that the phrase, 'as it has been necessary,' used in this preamble was not sufficient, and that the larger phraseology of the English Statutes, to which I drew attention, should have been employed. I did not refer to 1 William and Mary to which the Hon'ble the Law Member took us back, but, as he did refer to it, so far as I remember, I may say that the phraseology used therein also supports my contention. The preamble to that Act said —

'Whereas about the time of His Majesty's enterprise divers Lords and Gentlemen well affected to their country did act as Lieutenants, etc, though not authorised thereunto, and did apprehend and put in custody criminal and suspected persons, and did seize horses, etc, in which proceedings some force or violence, or defect of form was unavoidable which in a time of peace would not have been warrantable, and divers matters and things have been done, *all of which were allowable and necessary in regard of the exigencies of public affairs and ought to be justified*, and the parties thereto indemnified, be it enacted therefore,' etc

Mark the language 'all of which were allowable and necessary in regard of the exigencies of public affairs and ought to be justified'

"That was, my Lord, in 1689. I will omit the intermediate Statutes and I will come to the Statutes of 1715 in which, as I reminded the Council, it

was recited in the preamble which is the most important part of an Indemnity Bill that the Acts which that Statute sought to justify were done during the rebellion in order to preserve our present happy establishment and the peace of this kingdom and to suppress and put an end to the said rebellion. Here my Lord I will say parenthetically that I regret I was wrong in saying that there was no authority for the use of the words maintaining or in the Bill in the earlier Statutes of the English Parliament. My friend the Hon'ble the Law Member was right and I was wrong. But, my Lord, the language that was used was employed to show that the maintenance of peace was necessary because there had been a rebellion or an insurrection or riots amounting to war. Now my Lord in the Statute of 1715 after reciting the acts which had been done, it was said that whereas certain persons had for the purposes aforesaid namely in order to preserve our present happy establishment and the peace of this kingdom and to suppress and put an end to the said rebellion, did divers acts which could not be justified by the strict forms of law and yet were necessary and so much for the service of the public that they ought to be justified by Act of Parliament, and the persons by whom they were transacted ought to be indemnified, it should therefore be enacted, etc. My Lord my complaint was that while the draft of the Bill did use words in the preamble to show that the acts against which it was sought to indemnify officers were *necessary* i.e., that it was necessary to resort to martial law the advisers of the Government had not seen fit to incorporate the next clause of these earlier Acts, that is, the one which said that besides being necessary the acts were also so much for the service of the public that they ought to be justified by Act of Parliament. My Lord, I need not refer to the other Statutes, namely to those of 1745 and 1780; this is the phraseology that has been used in both of them. Now my Lord, not only in the English Statutes but in the South African Statutes also to which the Hon'ble the Law Member seems to have taken a great fancy the language used was done as necessary for the suppression of hostility in or the maintenance of good order or government, or the public safety of this Colony. That was in Act VI of 1900, when the Boer War was going on. So also in Act IV of 1902 the language used was done as necessary for the suppression of hostilities or the establishment and maintenance of good order and government, in or for the public safety of this Colony. It will be clear therefore, my Lord that the keystone upon which the edifice of an Indemnity Bill rests in all these Statutes, whether of the English Parliament or of South Africa, has been the declaration by the Legislature that the acts which were done and which it was sought to justify and indemnify officers against were acts necessary for the suppression of disorders or for the preservation of the public peace. Not only that but the English Statutes go further and say that those acts should also have been so much for the service of the public that they ought to be justified by Act of Parliament.

"This view is supported by the opinions of some distinguished Members of the House of Lords in the debate of 1818 and by the opinion of John Stuart Mill, to which I invited attention yesterday. Now, my Lord, the position taken up by the Government in the Bill as it was introduced was that it was necessary to introduce martial law for restoring or maintaining order. What have the Government done? The Government have now taken out the words 'It has been necessary for the purpose of maintaining or restoring order to resort to martial law,' and have substituted therefor 'martial law has been enforced.' I say the Law Member and the Home Member have cut the ground from under their feet, and they have no legs to stand upon in this Council and ask that the Indemnity Bill should be passed. I should like the Hon'ble the Law Member, who is a very learned man and whose researches in law and history must be deep, to tell me of any instance where an Indemnity Bill has been put on the Statute book of any country without its Parliament or legislative body being satisfied that the acts which had been done were necessary, just and proper . . .

The Hon'ble Sir George Lowndes — "Does the Hon'ble Pandit really want me to tell him?"

The Hon'ble Pandit Madan Mohan Malaviya — "I shall feel thankful to the Hon'ble the Law Member if he will do so."

The Hon'ble Sir George Lowndes — "Will the Hon'ble Pandit look at the St. Vincent Act that he is so much in love with?"

The Hon'ble Pandit Madan Mohan Malaviya — "I thank the Hon'ble the Law Member. The St. Vincent Act said 'acts which had been done *bona fide*, necessarily and properly for the suppression of rebellion. The language used there is clear . . .

The Hon'ble Sir George Lowndes — "The Hon'ble Pandit must refer to the preamble, he is not reading from it now."

The Hon'ble Pandit Madan Mohan Malaviya — "You have to take the preamble and the body of the Bill together. However, my Lord, without spending more time to look up that Act of St. Vincent—I have found the preamble of the amending Act, but the original Act I am not able to lay my hands upon just at this moment—I will say that I am glad to find a change in the attitude of the Hon'ble the Law Member towards the Act of St. Vincent. It was but yesterday that he held up that Act to ridicule, and to-day he cites it as an authority for the attitude now taken up by Government. What have things come to, my Lord? What a fall, what a sad fall? My Lord, if this is the position, I say the Government have to justify the introduction of this measure, and I submit that they have left no justification whatever for it now. My Lord, the whole situation has been altered by the modification which the Government have introduced, and I submit that on this ground alone, without raising any other point, I am entitled

to ask that the Council should not pass this Bill. I submit that Government have to go further than what the preamble as it now stands lays down. It is not enough to say that whereas martial law had been enforced certain acts done during the course of martial law should be justified and indemnified. It is not enough to say that You must consider what the acts were and has it been shown that the acts done were such as ought to be justified and indemnified against? The other day I referred at some length to the many allegations on the part of the people who have suffered that it was not necessary to introduce martial law. I have referred to many opinion expressed and I will quote one more to-day. At the end of the debate the Hon'ble the Home Member read to the Council a telegram which the Government of India had received from the Punjab Government on the 13th April last asking that martial law should be introduced in Lahore Amritsar and certain other parts of the Punjab. Now my Lord, that telegram stated that certain unhappy events had happened on the 10th April at Amritsar and Lahore and that two Europeans had been killed at Lahore on the 12th. My Lord I submit that that telegram did not state the whole truth. It stated only a part of the truth and did not supply all the material that was necessary in order to enable a sound judgment to be formed as to whether martial law should or should not be introduced. My Lord, as a matter of fact, we have indisputable evidence that on the evening of the 10th April after the temporary stir and disturbance and the firing on certain persons on the Upper Mall and at Anarkali Bazar everything was quiet in Lahore. The then Lieutenant-Governor was entertained at the Government House at a party that evening only a little after that time, and the Lahore correspondent of the *Pioneer* whose identity must be known I think to the Hon'ble Mr Thompson, writing on the 20th of April (his letter was published in the *Pioneer* of April 25th) said as follows:—

As a matter of fact when that evening was over (namely the evening of the 10th April) no real anxiety remained. No real anxiety remained though he adds—although of course the rioters were still exercising their sway and on Friday Saturday and Sunday business and ordinary administration was practically at a standstill.

My Lord I am sure the identity of this writer cannot be an unfathomable mystery to the officers of Government, and writing on the 20th April, this writer stated as a matter of fact that when that evening of the 10th April was over there was no real anxiety left. That was the state of things in Lahore; and we have had in the official Communiqués and the *Civil & Military Gazette* publications that after 5.30 P.M. there was quiet in Amritsar on the 10th of April. I submit, therefore, my Lord, that the telegram upon which the Hon'ble the Home Member has relied was not sufficient to justify the introduction of martial law. Nor did he say anything else to justify the introduction of martial law in Lahore and Amritsar and in several other parts of the Punjab. We have, on the other hand, allegations put forward after some inquiry which show that

there was nothing to justify the introduction of martial law. It is one thing to call in the aid of the military to suppress disorder, and quite another thing to introduce martial law. There was trouble at Lahore, there was trouble at Amritsar and in certain other places. The civil authorities rightly called in the aid of the military when they thought that their forces might not be sufficient to quell the disturbances. That has been done on numerous occasions without martial law being introduced, that will be done and ought to be done when necessary. As the Hon'ble the Law Member told us in his exposition of the law, where the civil authority finds itself unable to cope with disturbances or to quell them, it is justified in calling in the aid of the military, and where both acting together fail to establish order or to quell the rebellion, it is then that the civil authority would be justified in handing over their charge to the military. Now, I submit that the events which have been stated show that the first stage was reached, and that the second stage was not reached. That is to say, the civil authorities with the help of the military had restored quiet in Lahore and in Amritsar and in some other places, for instance, at Kasur, and that they succeeded in restoring quiet. And that therefore it was not necessary to resort to the next step, namely, to make over charge of the towns and the population to the will of the military officers.

“My Lord, of the many allegations that I put forward in support of my opposition to the Bill, an attempt has been made to controvert only some and to qualify a few others. A partial attempt has been made to offer an explanation of some of the allegations of people who have suffered or of the relations of people who have suffered. Many have remained unanswered. As I said on the first day, the Government have not taken the opportunity which I offered to them of stating the facts of which they must have a better knowledge than other people. But the Government having refused to state the facts for the information of the Council, I submit, my Lord, I am entitled to assume the correctness of the allegations implied in my questions for the purposes of this debate. The Council will remember that I did not profess to have any personal knowledge of the martial law incidents. I put forward these allegations on the authority of partial investigation by myself and my friends. I put forward these allegations as they were vouched for by respectable persons in whose veracity and honour I have confidence. If any of the statements are incorrect, no one will be more happy than myself to be corrected. No one can be more sorry than I will be if statements in regard to which I may have been mistaken or misinformed remain uncontradicted. I, therefore, welcome any criticism which would throw light on the facts brought forward if they are incorrect, and I should be thankful to any gentleman who supplied correct information. But what has been the case here? Let me examine some of the statements made by way of criticism of, or reply to, what I said. I will deal with the speeches of the Hon'ble Mr Hailey, Mr Thompson, General Havelock Hudson and Sir George Lowndes.

“My Lord, in the admirable statement which Mr Hailey made on behalf of the Government, he wanted us to believe that the state of things in Lahore

and in Amritsar and in other places in the Punjab where martial law was introduced, was so horrible that Government could not but resort to martial law. He told us that the Rowlatt Act agitation had created an atmosphere that was surcharged with danger. He said that the *Satyagraha* movement had come in and spread in the Punjab. But, my Lord, the Rowlatt Act agitation was not confined to the cities of Lahore and Amritsar. The Hon'ble Mr. Hailey is well aware, even better than I am, that there was agitation against the Rowlatt Act throughout the Punjab. He is also aware, I presume, that the *Satyagraha* movement had spread to all parts of the Punjab; that generally speaking, the 6th of April was observed as a *Satyagraha* day throughout that Province. He is aware that in none of these other numerous districts of the Punjab did the agitation against the Rowlatt Act or the *Satyagraha* movement lead to any strike or to any insurrection or rebellious movement. He is aware that there was no trouble whatever in any of these places. And no trouble arose in these places, for instance in Jullundur and all the other districts of that division, because the authorities did not interfere intemperately but interfered sympathetically with the movement. They wisely did let the people give vent to their feelings regarding the Rowlatt Act; let them observe the *Satyagraha* day as they like. Here, in Simla, Mr. Tollinton, the Deputy Commissioner expressed sympathy with the attitude of the people in observing the *Satyagraha* day. On the day following they resumed their business in the ordinary way. I could name several other Punjab officials who acted in the same way; but perhaps I had better not. I am sure the Hon'ble Mr. Hailey, being Additional Secretary to the Punjab Government, must know that in many districts of the Punjab, where the Rowlatt Act agitation and the *Satyagraha* movement were as strong as in any other place, there was no trouble. I contend, therefore, that the circumstances to which the trouble owed its origin was the blinding indiscretion of the Punjab Government as it was then constituted in having deported two such public men as Dr. Satyapal and Dr. Kitchlew. That was the root of the trouble.

I need not repeat the sequence of events here. I submit that for a proper consideration of the question that is now before the Council, it is necessary for the Government to show that there was a clear necessity for the introduction of martial law. But it is not enough to show that the introduction of martial law was necessary. It may have been necessary. Let us assume for argument's sake that it was necessary to introduce martial law in certain places at a certain time. The Government have to go further and to show that it was necessary to introduce it at midnight on the 15th of April; the Government have to show that it was necessary to introduce it in other parts of the Punjab and to maintain it up to the periods up to which it was maintained. I submit that this has not been shown by the Hon'ble Mr. Hailey. But I will not deal with the rest of Mr. Hailey's remarks, as I wish to compress my speech as much as possible. While Mr. Hailey has shown that these were anxious times

in the Punjab and that the Government had to exercise vigilance, he has not shown that the situation was such that a sober-headed sympathetic Governor could not have managed it, without resorting to martial law and inflicting the many indignities and humiliations that were inflicted on the loyal people of the Punjab. In contrast to this, I drew attention to what happened at Ahmedabad. Nobody on the official side has referred to it. Perhaps because it could not be referred to except to support what I have said. Trouble arose in Ahmedabad also, but it was completely got over in two days' time by the Government of Bombay allowing Mr Gandhi to go to Ahmedabad and advise the people. A similar course could have been pursued at Lahore and Amritsar, and, if it was found necessary to introduce martial law, it should have been got rid of at the outside within four days or six days or a week. It was certainly not necessary to expose respectable people to all the indignities and humiliations to which they were exposed, and to keep up this state of things for the inordinate period of time for which it was kept up.

"I will next deal with the Hon'ble Mr Thompson. Mr Thompson was the Chief Secretary to the Government of Sir Michael O'Dwyer while martial law was enforced. I can quite understand that he feels he is personally on trial, and I can, therefore, excuse him for importing a great deal of the personal element and unnecessary heat into the statements he put before the Council. But, my Lord, when we calmly examine his statements what do they come to? As I said before I am never discomfited if any statement made by me in the Council or elsewhere should be found to be inaccurate. Therefore, I repeat that, if Mr Thompson only gave me correct information in regard to incidents which I have mentioned, I should have whole-heartedly thanked him, however poignant might be my regret that I should have made an incorrect statement. Mr Thompson stated that I had said that in the Badshahi mosque meeting a C I D Inspector, Ali Gauhar, had made certain remarks which had caused resentment to the persons assembled there.

"He told us that he had the file of the case before him, and nowhere had it been stated in it that such a statement as I had made had been made, namely, that this Inspector had made certain remarks or said something which excited the people assembled there. For the benefit of Mr Thompson and the Council, I beg to draw attention to the statement made on solemn affirmation by Inspector Ali Gauhar Khan, Criminal Investigation Department, himself in trial No 1 of 1919 before the Martial Law Commission. He there stated — 'We were in plain clothes in the mosque. There were several thousands of people in the mosque awaiting the people who were to address the meeting. Abdul Hai told me that he recognised me as a C. I. D. man, as my department had had him imprisoned for three months and put on security for three years. When I denied that I was a C I D official, Abdul Hai went towards the pulpit and addressed the crowd saying 'the C I D police had always been intruding in our meetings,' etc

Now the man was a C. I D official and only when he denied it Abdul Hai went to the pulpit and addressed the crowd saying that the C. I D police were always intruding in their meetings, etc.

Now my Lord, I am sure that Mr Thompson would feel that my statement that the C. I D Inspector had made certain remarks which were resented by some persons at the meeting was not altogether incorrect

I take the next point made by Mr Thompson that relates to the incident regarding hand cuffing in Amritsar Mr Thompson wanted the Council to believe that so far as he knew nobody had been hand-cuffed there I hope I am repeating his words correctly Speaking with reference to the hardships to which Indians had been subjected, he also spoke of the not dissimilar inconveniences to which certain European ladies and children who had been sent to the Fort had been subjected. Now my Lord, I would place before the Council a statement on the subject, which I have in my hands of a Barrister at Law who says: On the 21st morning I myself with Sheikh Mahomed Amin pleader his son and brother were taken to the Rambagh in a well-guarded *band gari* and from thence ordered to be taken to the Fort. We four were there put in a cell hand-cuffed two together In a corner of the cell was a little heap of parched gram and a bucket of water In the afternoon we were taken out and marched in a file with a large number of hashmuri coolies and others to the open square inside the Fort, all hand-cuffed, two together There we had to march round and round with European ladies and gentlemen watching the show I suppose this was one of the inconveniences to which the European ladies and gentlemen were exposed in the Fort.

Now my Lord, I will take the next point. I referred to several cases of flogging Mr Thompson picked up one case and said Oh they were school boys; the Head Master had asked the Military to help him in maintaining discipline amongst students by flogging some He overlooks the fact that even that would not justify the flogging of the students by the Military people. And he has not a word to say regarding the many other cases of flogging which are mentioned in the statement which was laid on the table by the Hon'ble the Home Member in reply to a question which I put on the subject

Mr Thompson next referred to Mr Manohar Lal's case My Lord I had said in regard to Mr Manohar Lal's case that his wife and children had been turned out and were obliged to live in one of the outhouses used as servants quarters until the bungalow had been searched about a week later I did not state the exact period, because I did not know it Mr Thompson in referring to it grew very angry and said that the wife and children of this gentleman were allowed, so far as he was aware, to return to the bungalow the next day Now my Lord, I have ascertained the exact facts from Mr Manohar Lal and from others who knew it Mr Manohar Lal's house was locked on the 18th His wife, an invalid lady was turned out of the house at once. She was com

pelled to live in one of the outhouses on the whole of the 18th, the whole of the 19th and until late in the evening of the 20th, when the search of the house had been completed. She had not any bedding to lie upon with her, she was not allowed to take anything out of the house. Her friends sent her bedding and food, and thus she lived in an outhouse in her invalid condition for three days. Now, my Lord, if my statement that it was about a week later that they were allowed to return to the house was incorrect, Mr. Thompson in his capacity as Chief Secretary to the Punjab Government, should have told us what the exact period was and not fulminated that this was a very serious discrepancy.

"My Lord, I should not leave Mr. Manohar Lal's case without drawing your Excellency's attention to certain other remarks Mr. Thompson made about it. He said that Mr. Manohar Lal was a Trustee of the *Tribune*, and as such he was wont to take some interest in the paper. Mr. Thompson wanted the Council to think that that was a sufficient justification for the action that had been taken against him. I am not surprised, my Lord, that this view was put forward by Mr. Thompson, because in the letter, dated the 20th April which appeared in the *Pioneer* to which I have referred before, I find it stated —

'Manohar Lal, the Trustee of the *Tribune* represents one of those cases which make one despair of educating on western lines. He gained a scholarship to England and at the 'Varsity' gained a brilliant reputation for economics. On his return to India, however, he failed to maintain the promise of his academic career, and while he has always posed as an authority on education, he has done very little practically to utilise his own talents to their full extent.'

"My Lord, it is sad to find that with the writer of the letter in the *Pioneer* Mr. Thompson thinks that the mere fact of Mr. Manohar Lal's being a trustee of the *Tribune* was sufficient to put this distinguished scholar, not less distinguished than Mr. Thompson, to all the indignities, humiliation and suffering to which he and his wife were exposed.

"The next point I will deal with is the treatment of respectable citizens in Gujranwala. Mr. Thompson read what I thought was a letter from Colonel O'Brien giving his version of the affair. My Lord, he seemed so far as I could make out, to question the correctness of the statement that a Hindu and a Mussalman were handcuffed together by deliberate design. He said that was accidental. My Lord, I refuse to take that statement as correct. I will quote from the correspondent of the *Pioneer* on this subject also, from a letter published in the paper of the 25th April. He said —

'The outbreak in Gujranwala had almost a comic opera termination. Colonel O'Brien had handed over charge to Mirza Sultan Ahmed and was in Lahore when the news came in. He immediately hurried back to his former district and after the immediate suppression of the riot he arrested eleven leaders (including one Mangal

Sen, a local financial genius joined the march procession through the city accompanied by a detachment of the 26th Royal Sussex and he dolly tow City Fether—a Hindu and Muslim respectively—while their adherents shouted out to their constituent units to behave themselves by acts of violence. The spectacle was the kernel and large hearted correspondent of the *London Times* the spectacle of Hindu-Muslims—a first that has been almost an impressive on the sight of Muslim soldiers marching in the Jammu Masjid at Delhi.

I leave the Council to judge for itself upon what were the feelings of the men whom Mr Thompson represents, in relation to this incident and I ask the Council not to accept the statement put out by Mr Thompson that it was merely by accident that the Hindu and Muslim were handcuffed together and marched in this direction, which it was not.

Mr. J. M. Thompson, the representative of the Government, in a summary trial, stated that the notes of evidence had not been called for in the case. He said that he had not been recorded. Mr. Thompson showed that in the case several pages of notes of evidence in certain cases. But he never said there were no notes of evidence in that case. What I did say was that it had been alleged that notes of evidence had not been called for in a number of cases. I also placed before the Council the reports of the Government in two cases in one of which I pointed out that even the offence with which the accused was charged was not mentioned. That was a case tried by Mr. Hale on the 26th of May 1919. Mr. Thompson had not a word to say about it.

My Lord, the next incident to which I referred and to which Mr. Thompson also alluded was the Ramnagar case where it is alleged that the King's effigy was burnt. Mr. Thompson failed to grasp my point and did not represent me correctly. My complaint was that here was a case in which respectable, probably the most respectable Hindu citizens of Ramnagar were charged with having burnt the King's effigy. Their position and status in society, their wealth and character made it impossible for me to believe and should make it impossible to be believed that they would be guilty of such foolish and wicked mischief. Their complaint was that they had not had a public inquiry which they wanted. They had not had a regular inquiry and they urged that if they had a regular inquiry if they had an opportunity of appeal to a higher court the facts would have been sifted and their innocence would have been established. They urged that the case was a trumped-up one, without any foundation, and that they were entitled to have the matter regularly tried. There was no trial law necessity for trying this case in a summary way before a martial law tribunal and my complaint was that by having been put before a martial law summary court for trial on such a charge they were deprived of the opportunity they should have had to establish their innocence, and that they have been unjustly dealt with.

2 The average daily attendance for the year under review was 3 992, a considerable increase in the number for the year 1873 74 This increase is partly accounted for by the inclusion of the District Schools of the Burwancee State and the schools of Sillana and Seetamow in the return which were not before included Apart from this, however, the increase in the attendance of pupils in the schools of Native States is marked

3 In the Agency and Cantonment Schools there is a falling off in the daily numbers

4 The Residency School has many young Chiefs and Thakoor, Rajpoots and Bheels

On the 31st March 1875 there were 124 students on the rolls of the school against 137 at the end of the previous year Of these 86 boys or nearly 70 per cent are taught English, most of them learning Persian or Hindee besides The first class consists of four students all of whom entered it in October 1874, and will therefore hardly attain to the standard required for matriculation during the next year

The school was visited and examined in September by Captain Jacobs, Inspector of Schools, and passed a fair examination

5 The expenditure on education during the year shows an increase, the figures being for 1873 74 Rupees 69,339 12, and for 1874 75 Rupees 74 232 10 11 The increase for the year is considerably less than for 1873 74, the decrease being almost entirely confined to the head "One per cent cess and grants made from local funds and Native States"

The Native States, however, pay all the charges for the schools maintained in their territories No fees from pupils appear in their returns, and but a small sum as "grants in aid" this will explain the discrepancy between the expenditure and income

6 A new school has been established at Augur, it has proved a success, and the Political Agent, Western Malwa, speaks hopefully of it The same officer reports very favorably of the school established at Rutlam The interest taken in the cause of education by Mr Shribhamut Ali, C S I, Superintendent of the State, has resulted in a handsome and convenient building, an efficient teaching staff, and a large attendance of pupils The institution is a popular one with all classes, and there are separate departments for English and the vernacular languages

Besides this institution there are 21 district schools and 14 aided private schools, the total number of pupils in which were 1,059 for the year under review

7 Besides the college in the Lushkhar at Gwahior, there are 93 district schools affording education to nearly 4,000 children in Maharaja Sindia's territories

8 The Resident at Gwahior makes an urgent appeal for a grant from Government in aid of the Morar Cantonment School, which is suffering from a want of support, the voluntary contributions on which it depends not being sufficient for maintenance

This school was originally established as a Christian school for the children of Eurasians, &c, but the number did not admit of its maintenance

The cantonment of Morar has large local funds and a body of prosperous traders, and I think should not look to imperial aid for a school.

9. At Bhopal and Bairsia there are large and well attended schools.

10. At Nagode, Sohawul, and Kotee the schools are fairly attended.

11. The Dhar Durbar reported that on the 31st March 1875 the number of the schools and pupils was as follows:—

One English school with 50 pupils and 18 Vernacular schools with a total of 556 pupils.

12. In Jabooah there are 126 pupils receiving instruction in four schools.

13. In Ali Rajpoor there were 181 pupils in the schools.

14. The names of 153 boys were borne on the rolls of the Pergunnah Schools of Maunpoor, the attendance was irregular, the daily average showing only 103.

15. The State of Burwancee has 11 schools for boys and 2 for girls, the average daily attendance at which is for the boys' schools 333, and for the girls' school 16. Unfortunately but very little interest is taken in these institutions by the leading men.

16. The Regimental School of the 1st Central India Horse at Goona is well attended and continues to prosper.

17. Returns have been received from 41 schools in Bundelcund, the average daily attendance in which is 1,117. The inspection which it is hoped to provide will increase the efficiency of these schools, which have hitherto been without that advantage.

18. The Raj Koomar College of Bundelcund was at the close of the year ready to be opened. The accommodation which had been provided was at any rate for a beginning ample and well suited to the object in view. The Political Agent had been in communication with the Director of Public Instruction, North-Western Provinces, and the Principal of the Government College at Benares regarding the selection of a Superintendent, and the name of a gentleman in every way qualified for the post had been submitted. The want of such an institution in Bundelcund can scarcely be overstated, the Chiefs and Thakoors there have hitherto been conspicuous for their want of knowledge and education.

The college has been opened since the close of the year.

CHAPTER VII

ANNUAL PROGRESS REPORT OF PUBLIC WORKS UNDER THE CENTRAL INDIA AGENCY FOR THE YEAR 1874-75

The budget allotment for the year, from imperial funds, amounted to Rupees 9,96,000, which was increased by Rupees 30,000 towards the close of the year. The expenditure against this grant of Rupees 10,26,000 was Rupees 9,79,708, showing a lapse of Rupees 46,292, which occurred chiefly under the head "Military," owing in a great measure to the unavoidable delay in commencing the works for which the extra grant was made.

Local funds and contributions from Native States to the extent of Rupees 2,73,592, bring up the total outlay for the year to Rupees 12,53,300, the charge for establishment on this outlay being 24.5 per cent, or deducting the cost of establishment the charge for the latter amounts to more than 32 per cent of the reduced total. This is, however, a slightly less proportion than that of last year.

MILITARY

Encamping grounds—The wells in the encamping grounds at Matgon and Goalgunje on the Banda and Saugor Road, and at Bortlee and Soojlana on the Mhow and Neemuch Road are now completed.

Mhow—The wells in the European Infantry Lines have been deepened as opportunity offered, but they are still incomplete. The well intended to supply the artillery plunge bath having given promise of a sufficiency of water, the bath itself has been commenced.

Temporary gun sheds have been erected during the year.

The construction of a sixth barrack for the cavalry and infantry, and of the heavy battery barrack has been deferred, pending the settlement of the question as to the amount of accommodation still required for the Mhow garrison.

The family barrack cool houses for the cavalry are now complete, but the plunge bath was not commenced as it was still uncertain which of two wells, conveniently situated for the purpose, would give an adequate supply of water for it.

Stone flooring has been laid down in the upper stores of one new, and of the three old, European Infantry barracks. The prayer room has been opened for use. The European Infantry Hospital guard room was finished before the end of last year. Little remained to be done to render the contagious diseases hospital fit for occupation. The European Infantry and Artillery Hospital Subordinates' quarters were not quite roofed in.

• The second hospital for Native Infantry is now finished.

An estimate for Ordnance Subordinates' quarters having been disapproved of as of too expensive a nature, a project for altering a block of temporary married men's quarters in the European Infantry Lines to accommodate these men is now under consideration.

The store-room and the tank in the arsenal are both complete. A new rum godown has been built, and the old one was converted into a bakery during the year.

One ball-court for the European Infantry was completed, but the second will not be built at present. The flooring of the Cavalry Court was still unfinished.

The five earthen dams were constructed as usual across the Sartier river for the storage of water. Other minor works of utility were carried out, including the completion of a second armourer's shop and of a new magazine for the Native Infantry, the provision of stone flooring to the Staff Sergeant's quarters, European Infantry, and of a Corporal's room in the Cavalry canteen, and the excavation of a well in the Commissariat Lines. Some more trees were planted at the sides of several roads in the cantonments, and the local funds aided in keeping the roads and culverts in good order.

Indore.—The European Infantry Hospital Subordinates' quarters have been finished.

Mehidpoor.—Very little was done to the out-offices of the Native Infantry Hospital, chiefly owing to modifications rendered necessary in the plans and estimates, by the greater depth that had to be given to the foundations. The drainage of the lines was successfully carried out, and an armourer's shop and rifle range butts were in progress for the use of the Native Infantry.

Augur.—A magazine was commenced for the Central India Horse, and one for the Native Infantry was completed, the copper work excepted.

Sirdarpoor.—A rifle range was commenced for the men of the Malwa Bheel Corps.

Nagode.—Quarters for a Hospital Subordinate were completed during the year.

CIVIL BUILDINGS.

Mhow.—The difficulty in selecting a suitable site for the new cemetery delayed the preparation of the project, which is now, however, only awaiting sanction.

Indore.—The Court-house was almost ready for occupation before the end of the year, but the railing round the compound had not been erected.

The Residency out-houses and the opium godown well were completed, and a verandah for the better protection of the opium from the weather during the process of weighing was added to the inner quadrangles of the godown, whilst the external space round the latter was metalled. A new well was sunk near the road to the city, chiefly for the benefit of the cattle which are penned in the neighbourhood.

Sutna.—Two blocks of buildings for the Agency Police, and some subsidiary buildings to the hospital, have been erected.

Nagode.—Additional accommodation was provided for the Post Office, and out-buildings were constructed for the mail-runners.

metalling for the future. The shallower parts of the Sindhu river in the 3th mile have been metalled, and a pile bridge during the cold weather was erected. New boats were constructed for the ferry, which was managed departmentally this year. The transfer of that portion passing through the Dutta State was rendered advisable, as it was fast falling into a state of disrepair, to secure it from which the State, though it formerly maintained it at its own cost, agreed to make it over to be regulated by the Department Public Works. These 20 miles, therefore, are not just now in such a good condition as might be wished, but the last section lying in British territory is in good order. With the exception of the Sindhu, all the rivers and streamlets on this road, 65 miles in length, are bridged.

Thamre and Nwongun Road—The 65 miles between Thamre and Nwongun were kept in good order. A trestle bridge was thrown across the Betra, in the 8th mile, for the dry weather traffic, the ramps of approach were improved, and a small iron mail boat proved very useful, whenever floods showed that the larger ordinary ferry boats were too unwieldy to cross as was frequently the case. The ferry was managed departmentally. The bridges over the main and third escape channels of the Butwa Sagur Lake were opened for traffic, and that over the second escape has made fair progress, whilst a weir was also constructed for the overflow from the lake.

The approaches to the Soohai bridge, 9 spans of 50 feet, have been completed and protected by a railing.

The foundation wells of the Korar bridge, 3 spans of 40 feet, were placed in position, and the steaming of some of them was sunk to depths of from 6 to 16 feet. Work was somewhat delayed, however, by the necessity of substituting wells for solid foundations in the west abutment and wings, as the depth of sand was found to be greater than the preliminary borings had indicated.

The pile bridge and ferry across the Dessan river were maintained as usual, but a small mail boat is still required.

Nongun and Sutra Road—The first 30 miles have been metalled and bridged, and for the next 13 miles up to the Kane river, collection of metal was in progress. This year for the first time trestle bridges were thrown over the two dry weather channels of the Kane river, the which is here about 1,700 feet wide. Beyond the Kane, the Lower Punah Ghat had been opened for traffic a distance of 3½ miles, but the paucity of funds available, combined with the scarcity of water near the summit of the pass, to a certain extent delayed progress in the construction of the next 3½ miles to the head of the Upper Punah Ghat. The earth-work, dry revetment walls and 8 out of the 25 culverts were in progress however.

From the crest of the pass to Punah, another 6½ miles, only the embankment has been thrown up, and between Punah and Buirgaon, 12 miles, nothing more has been done yet, attention having been confined to the completion of the bridges on the last 1½ miles nearest to Nagod. These are practically completed, together with 9 miles of the first coat of metalling.

The town of Nagode lies on the west (left) bank of the Amrun river, which is now being spanned by a bridge of 5 spans of 45 feet.

The abutment and two piers on the east side were completed almost up to the springing line, the foundations of the third pier had been laid, but only a commencement had been made in sinking the wells for the west abutment and pier. The work was delayed after the close of the year by an outbreak of cholera. A causeway has been constructed across the Sutra, the estimate for bridging this river not having yet been submitted. The 16 miles between Nagode and Sutra are metalled and bridged with the above-mentioned exceptions.

Sutra and Bela Road.—This road, 22½ miles in length, will complete the metalled communication between the Sutra Railway Station and the city of Rewah, Bela, its present terminus, being situated on the Great Deccan Road, about 9 miles from Rewah. It is being constructed at the entire expense of the Rewah Durbar. Last year the earthwork and a few culverts were commenced as a measure of relief during the scarcity in Bundelcund. This year the earth-work has been completed, excepting the approaches to the bridges; and the masonry work all along the line, including a causeway across the Tonse river, is making fair progress: 16 out of 41 culverts and bridges are now, as well as a bungalow at Rampore, practically completed.

Sutra Bazaar Road.—This road, about half a mile in length, running from the north level crossing at the Sutra station parallel with the railway to the bazaar, had to be remodelled. The work is almost complete. *Banda and Saugor Road.*—The first section of this road from Banda to Srinagar is under the Government of the North-Western Provinces. From Imilee, near Srinagar, to Ungoor, 17 miles beyond Chutterpore, the road is bridged and metalled, excepting the Ormul which has a causeway; but as regards the last 25 miles from Ungoor to the southern limits of the Central India Agency near Heerapoor, want of funds has necessitated further delay in the completion of the work.

Nowong and Srinagar Road.—This section of road is now virtually complete, the last 5 miles, 16th to 20th, having received the second coat of metalling. This opens communication between Nowong and the Banda and Saugor Road at Imilee, a short distance south of Srinagar. *Nagode and Katinjar Road.*—The completion of this road, 35 miles long, is still in abeyance, but it has been maintained as a fair-weather road.

Branch Roads.—In addition to the lines of communication mentioned above, several small links about Morar and Gwalior have been maintained in good order. At Indore a road, about one-quarter of a mile long, was constructed from local funds through the cowherds' quarter.

Now.—The new staging bungalow was very nearly completed.

(Sd.)

W. S. TREVOR, Lieut.-Col., R.E.,

Offg. Chief Engineer for Central India.

APPENDIX I.

PART I.

Account of appropriation for Public Works, Imperial, for the year 1874-75.

Section A—Ordinary and Extraordinary

1	2	3	4
GRANT HEADS	Grant as per Budget Orders	Final Grant at end of year	Outlay
ORIGINAL WORKS	Rs.	Rs.	Rs.
Military	1 58 000	1 58 000	1 20 438
Civil Buildings	40 000	30 000	31 753
Communications	1 98 000	2 05 200	2 24 108
Repairs	3 94 000	4 23 200	3 76 998
Military	70 000	75 000	77 604
Civil Buildings	20 000	14 800	15 673
Communications	2 31 000	2 34 000	2 27 657
Repairs	3 24 000	3 23 500	3 20 8 9
Establishment (Ordinary)	2 70 000	2 70 000	2 71 309
Tools and Plant	8 000	9 000	9 966
Profit and Loss			
Total	9 96 000	10 26 000	9 77 53
Addition in Grant during the year	30 000		1 856
Public Works Proper	10 26 000	10 26 000	9 79 708

APPENDIX II

PART I—could

Section B—Ordinary Expenditure only

1	2	3	4
GRANT HEADS	Grant as per Budget Orders	Final Grant at end of year	Outlay
MILITARY	Rs.	Rs.	Rs.
Original Works	1 58 000	1 53 000	1 70 438
Repairs	70 000	75 000	77 604
Tools and Plant	86 738	83 253	77 604
Increase of Stock	3 16 8	3 54 301	2 77 743
OTHER SERVICES.	3 10 2 8	3 54 361	2 81 2 0
Civil Buildings	40 000	35 000	31 753
Repairs	20 000	14 800	15 673
Original Works	1 98 000	2 06 200	2 24 108
Communications	2 31 000	2 34 000	2 27 657
Establishment	1 34 000	1 6 717	1 91 750
Tools and Plant	8 400	9 502	9 933
Profit and Loss			
Decrease of Stock	6 79 22	6 71 433	7 00 40
Total Ordinary Expenditure	10 26 000	10 26 000	9 79 708
Addition in Grant during the year	30 000		1 856

APPENDIX III.—(concluded)

DETAILS	TOTAL OF EACH STATION			TOTAL OF EACH CLASS		
	Original Works	Repairs	Total	Original Works	Repairs	Total
COMMUNICATIONS						
Mhow and Neemuch Road	Rs. 40,304	Rs. 10,964	Rs. 51,268			
Chambal Bridge in Dhar State	5,141		5,141			
Dhar and Ghatta Bullock Road	18,138		18,138	02,445	10,964	1,03,409
Opium Road		1,459	1,459	18,139		18,139
Indore and Sehore Road		1,801	1,801		1,459	1,459
Indore Mhow and Khundwa Road	3,251	66,633	69,884		1,801	1,801
Dewas and Ashta Road	24,487		24,487	3,751	66,633	69,884
Dewas and Oojein Road	751	4,377	5,078	24,487		24,487
Agra and Bombay Road		1,54,772	1,54,772	751	4,377	5,078
Addtional waterway in 25th 26th 27th and 29th miles	14,003		14,003			
Extending Parbutty Causeway	241		241			
Bhowlee Nulla culvert in 20th and 26th miles	2,814		2,814			
Bridge over nulla below Mhow Fort	499		499			
Karun River causeway in 1st mile	2,948		2,948			
Fort Phoolbagh and Red Roads		1,041	1,041	20,405	1,54,772	1,75,177
Agra and Morar loop line		6,435	6,435		1,041	1,041
Sipri and Morar loop line		363	363		6,435	6,435
Gwalior and Etawah (or Band) Road	7,678	0	7,678		363	363
Jhansi and (Calpee) Cawnpore Road		2,376	2,376	7,678	0	7,678
Sipri and Jhansi Road	5,846	1,887	7,733		2,376	2,376
Gwalior and Jhansi Road	2,808	7,114	10,012	5,846	1,887	7,733
Morar River Bridge	80		80			
Jhansi to Nowgong Nagode and Satna, thence to Jabalpur in Central Provinces	38,160	1,52,8	63,388	2,978	7,114	10,092
Sooknaul River Bridge	816		816			
Soonwarce Nulla Bridge	993		993			
Koror	17,81		17,81			
Bridges and culverts in the last 14 miles of 4th section	26,444		26,444			
Three bridges over escape of Burwa Sagar Lake	12,000		12,000			
Amrun River Bridge	30,079		30,079			
Banda and Saugor Road	3,763	11,54	14,596	1,26,510	20,228	1,51,738
Oomul River Causeway	1,795		1,795			
Satna and Bela Road	36,645		36,645	4,560	11,374	15,884
Nowgong and Srinagar loop line	4,014	1,251	5,265	36,645		36,645
Nagode and Kalunjar Road		1,071	1,071	4,014	1,251	5,265
Other roads	410	794	1,204		1,071	1,071
Minor works and repairs	21,179	1,709	22,888	410	794	1,204
				21,179	1,709	22,888
TOTAL COMMUNICATIONS				3,69,387	3,60,475	6,69,862
Duct Contr butions				1,45,772	7,923	2,14,107
Net Communications				2,24,108	2,77,650	4,51,000
Establishment (ordinary)						
Tools and Plant				2,71,309		2,71,309
Profit and Loss				9,66		9,66
TOTAL ORDINARY EXPENDITURE				6,56,973	3,20,579	9,77,552

(24) J ROBINSON

Controller Public Works Accounts Central India

APPENDIX IV.

Statement showing the expenditure from Contributions in the Public Works Department during the year 1874-75.

	TOTAL OF EACH STATION.			TOTAL OF EACH CLASS.		
	Original Works.	Repairs.	Total.	Original Works.	Repairs.	Total.
ORDINARY EXPENDITURE.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Military						
(General Cantonment) works and roads		3,424	3,424	...	3,424	3,424
Encamping grounds		101	101	...	101	101
Total Military			...		3,525	3,525
Civil Buildings.						
Telegraph buildings		23	23			
Offices	3,343		3,343	3,343	23	3,370
Embroideries	1,240		1,240	1,240	...	1,240
Total Civil Buildings			...	4,583	23	4,606
COMMUNICATIONS						
Almor and Narnah Road	40,000		40,000	40,000	...	40,000
Dhar and Ghatta Billole Road	18,916		18,916	18,916	...	18,916
Ogrein and Angur Road	425		425	425	...	425
Ogrein Road		1,420	1,420	...	1,420	1,420
Indore and Khundwa Road	130	27,914	28,044	130	27,914	28,044
Devas and Achha Road	24,497		24,497	24,497		24,497
Devas and Ogrein Road	751	4,223	4,974	751	4,223	4,974
Neigunga Road	68		68	68		68
Agra and Bombay Road	3,761	37,301	41,062	3,761	37,301	41,062
Gwallior and Bawab (or Bhind) Road	7,799		7,799	7,799	...	7,799
Sirot and Jhansi Road	5,416		5,416	5,416	...	5,416
Gwallior and Jhansi Road	2,966		2,966	2,966	...	2,966
Jhansi and Nowgong Road	217	1,834	2,051	217	1,834	2,051
Sutna and Bela Road	38,645	...	38,645	38,645	...	38,645
Road from Bela Road to Sutna Railway Station	829	...	829	829	...	829
Other Roads	2,408	...	2,408	2,408	...	2,408
Total Communications			...	1,45,270	72,823	2,18,102
Establishment ...	...	...	...	35,500	...	35,500
Tools and Plant ...	...	...	...	8,001	3,682	11,683
Total Contributions ...	...	...	...	1,03,331	80,258	2,73,582

(Sd.) J. ROBINSON,

Controller, P. W. Accounts, Central India.

REVIEW BY THE AGENT TO THE GOVERNOR GENERAL FOR CENTRAL INDIA ON THE ANNUAL PROGRESS REPORT OF THE CHIEF ENGINEER IN THE PUBLIC WORKS DEPARTMENT OF THE ADMINISTRATION 1874-75

THE Officiating Secretary to the Central India Administration and Chief Engineer in Central India, Lieutenant Colonel W S Trevor, V C, R E, has given a clear statement of the works which have engaged attention during the past year

The funds at disposal were Rupees 12,96,592, of which Rupees 10,26,000 were Imperial, and Rupees 2,73,592 contribution from Native States and local funds

The expenditure fell short by Rupees 46,292 of the assets due to causes beyond control

The cost of establishment is somewhat less than last year, but constituted as the department is, this is a matter not within the regulation of any administration. The Government of India is compelled to appoint and employ officers at their disposal without reference to their grading

MILITARY WORKS

How—The water supply, always a matter of anxiety, has occupied attention. Wells have been deepened, but the difficulty has not been removed, and the question requires consideration of funds

The works which have been completed, and those which are in hand, are detailed by the Chief Engineer

The wants of the cantonments of Mehidpoor, Augur, Sirdarpoor, and Nagode have been supplied

CIVIL BUILDINGS

How—Indore, Sutna, Nagode, Nowgong have received attention.

COMMUNICATIONS

Details are given of the construction and repairs of some 1,500 miles of roads. It is not necessary to recapitulate what has been stated, but I would draw special attention to the Nowgong and Sutna road. There is scarcely one in India of more importance. It will put the cantonment of Nowgong in direct communication with the Great Indian Peninsula Railway at Sutna, 100 miles. It will open Bundelcund to traffic, hitherto the passage of the ghâts between Panna and the Kane river has only been practicable for bullocks. The steepness of the ascent made it difficult for laden camels. Over the lower ghat $3\frac{1}{2}$ miles in length, an excellent road has been constructed, the steepest gradient being 1 in 25. The works on the road about $2\frac{1}{2}$ miles long only lag for want of funds. The construction of this ghât road have been discussed for some time, and its importance to the province of Bundelcund cannot be overestimated from a military or commercial view.

The progress made by the Executive Engineer, deserving of praise, he has shown skill and ability. I hope during the current year funds may be at disposal to complete the

passage, and so open communication through the heart of Bundelcund to the Agra and Bombay road at Seepree.

The Dewas and Ashta road, through Gwalior and Bhopal territory, will be a valuable feeder to the railway at Indore and Oojein.

The Augur link to Oojein (a third class road) will also be valuable a feeder, and place the garrisons of Augur and Mehidpoor within railway reach.

The road connecting Rewah with Sutna, East Indian Railway, is well advanced, and already great traffic passes along it.

In March last Colonel Cadell, R.E., who had held the control of the public works in Central India for several years with ability, which has been repeatedly acknowledged by myself and predecessor, was promoted to officiate in a higher appointment in the North-Western Provinces, and has been succeeded by Lieutenant-Colonel W. S. Trevor, V.C., R.E.

H. D. DALY, *Major-General,*
Agent, Govr.-Genl., for Central India.

Public Works from Local Funds.

<i>Cantonments and Agencies.</i>	<i>Original Works.</i>			<i>Repairs.</i>			<i>Total.</i>			<i>Works calling for remarks.</i>
	<i>Rs.</i>	<i>a.</i>	<i>p.</i>	<i>Rs.</i>	<i>a.</i>	<i>p.</i>	<i>Rs.</i>	<i>a.</i>	<i>p.</i>	
1. Indore ...	7,112	2	3	1,379	11	6	8,491	13	9	
2. Gwalior Agency ...	2,475	0	0	.....			2,475	0	0	
3. Bhopal Agency ...	.....			9,629	0	0	9,629	0	0	
4. Western Malwa Agency ...	2,478	0	0	272	11	9	2,750	11	9	
5. Bheel Agency ...	323	0	0	200	0	0	523	0	0	
6. Goona Agency ...	555	2	0	1,484	6	4	2,039	8	4	
7. Maunpoor Pergunnah (Road and Municipal Fund) ...	.....			160	5	6	160	5	6	
8. Baghelkund Agency ...	.....			.....			.....
9. Bundelcund Agency ...	623	4	0	256	4	0	879	8	0	
10. Mhow Cantonment ...	.....			.....			.....
11. Morar Cantonment ...	.....			4,512	13	11	4,512	13	11	
12. Neemuch Cantonment...	996	10	6	414	14	0	1,411	8	6	
13. Nowgong Cantonment ..	1,174	13	4	2,107	11	1	3,282	8	5	
14. Seepree Cantonment ...	.....			370	0	0	370	0	0	
15. Mehidpoor Cantonment..	.....			.....			2,687	3	7	
Total ...	15,738	0	1	20,787	14	1	39,213	1	9	

CHAPTER VIII

POST OFFICES

Two attempts to rob the mails are reported. One of these was on the runners' line between Indore and Neemuch, and failed it is said, owing to the presence of the escort, but the Political Agent for Western Malwa doubts the accuracy of the account given.

The other attack was made on the 11th of January in Gwalior territory, and property to the value of Rupees 932 4 9 was carried off, the case is still under investigation.

A runner was murdered in Bhopal territory, and several cases of attempted robbery of the mails were reported to the authorities, no letter or parcel was lost.

2 The total cash receipts reported from the Post Offices under the Central India Agency amount to Rupees 1,02,051-8, and disbursements to Rupees 1,04,725 15.

3 The record of issue and despatch of covers has been discontinued by the Postal Department, but the returns inserted have been furnished by the Department.

In the Baghelkund Agency the number of letters, &c, for despatch were 150,575, and for issue 128,266.

The number for issue in the Bundelcund Agency was 147,148.

4 The average rate of conveyance of the mails was by mail cart, eight miles an hour and by runners, $4\frac{3}{4}$ miles an hour.

5 In the Indore Division there are now only 35 miles of mail cart line, this is due to the advance of the Holkar State Railway. A mail cart was started between Indore and Mhow (14 miles), but the mails being carried by contract and only the rate for a runner's line being sanctioned by Government, the mail cart had to be abandoned.

The advance of the railway works beyond Indore has brought about changes in the mail lines.

6 Two Post Offices have been opened at divisional centres of the railway.

Two runners' lines from Neemuch to Jhalrapatun and Sirdarpoor to Dohud were closed.

Arrangements were made by the postal authorities for transporting the mails across rivers and nullahs in the Indore Division where they are very numerous, and when in flood are formidable obstacles these arrangements were somewhat defective.

On the important line of communication between Indore and Neemuch, a high flood in the Chumbal delayed the mail for six days on one occasion.

A horse dak has been substituted for the runners' line for the conveyance of the mails between Gwalior and Jhansi.

7. The following Statement shows the receipts and expenditure on account of staging bungalows under the Central India Agency:—

Staging Bungalow receipts and expenditure during 1874-75 in Central India.

	Receipts.	Total.	EXPENDITURE.			Total.
			Establishment.	Contingencies.	Furniture.	
	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>	<i>Rs. a. p.</i>
Under Public Works Department ...	8,910 0 0	.....	3,437 12 11	229 12 8	1,874 4 3	5,541 13 10
Under the Political Agency...	48 0 0	3,038 0 0	102 0 0	18 0 0	0 0 0	210 0 0
TOTAL ...	.....	3,038 0 0	3,029 12 11	247 12 8	1,874 4 3	5,751 13 10

CHAPTER IX.

ELECTRIC TELEGRAPH.

The annexed Statement gives the statistics of the Government Telegraphs in Central India :—

LENGTH OF LINE		MILES OF		Number of Offices	COLLECTIONS	
From	To	Line	Wire		Offices	Amount.
						<i>Rs a p.</i>
Indore	Neemuch	153 68	153 68	1	Indore	19,161 4 0
Ditto				4	Rutlam	4,003 0 0
					Jowrah	1,725 0 0
					Mundisore	2,525 4 0
					Neemuch	2,343 14 0
Ditto	Agra	352 375	407 675	6	Shajapoor	728 0 0
					Beora	341 0 0
					Goona	672 8 0
					Gwalior	3,535 8 0
					Morar	4,421 4 0
					Dholepoor	532 0 0
Ditto (Dewas)	Oojein	23	23	1	Oojein	3,224 4 0
Ditto	Mhow	88 5	341	1	Mhow	3,471 12 0
Ditto	Khundwa	1				
	Total	616 555	928 355	13	Total	46,581 10 0

2. A new line along the Neemuch State Railway is to be constructed. The estimate for the section from Indore to Rutlam, including a branch from Futtehabad to Oojein, has been sanctioned.

3. An office was temporarily opened during the rains at Seepree to keep up the communication between Goona and Gwalior: this was necessary on account of the heavy rain and defective insulation on that section.

4. The collections at the 13 offices enumerated amount to Rupees 46,581-10, being a large increase on the year 1873-74, which was Rupees 34,774-4. The expenditure during the past year has been Rupees 46,634, the loss has therefore been Rupees 53. In some of the small offices, Beaura for instance, the excess of the expenditure over receipts was Rupees 1,307 in the year. In order to meet this deficiency His Highness the Nawab of Rajghur has agreed to contribute Rupees 80 monthly towards the maintenance of the office, and probably more will be forthcoming, for the feeling is everywhere strong against the closing of an office the convenience of which has once been felt.

5. The line along the Holkar State Railway has been completed to Indore, and the corresponding road lines have been dismantled.

The strength and distribution of the troops serving within the limits of the Central India Agency is shown in the following table:—

MILITARY.

CENTRAL INDIA AGENCY REPORT.

	CAVALRY.				ARTILLERY BATTERY.		INFANTRY REGIMENT.			
	European.		Native.		European.		European.		Native.	
	Number.	Strength.	Number.	Strength.	Number.	Strength.	Number.	Strength.	Number.	Strength.
<i>Troops of the Line.</i>										
... { Mhow, Neemuch, Mohidpoor, Indore, Augur. }	1	417	1	278	3	393	1 & Det.	1,022	4	2,463
... Morar, Gwalior Fort, Seepree	...	...	1	357	4	455	2	1,122	2 & Det.	1,169
... Nowgong, Nagode	...	...	1	450	1	166	1	157	1 & Wing.	1,011
<i>Local Corps under Central India Agency.</i>										
Bhopal Battalion	1	417	3	1,085	8	1,004	4 & Det.	2,301	7 & Dets.	4,643
Malwa Bheel Corps	...	...	2	985	...	...	...	...	...	...
... Augur and Goona	...	...	...	...	...	...	...	...	...	...
... Sehore	...	...	...	...	...	...	...	...	...	...
... Sirdarpoor	...	...	...	...	...	...	...	...	...	...
Total	...	...	2	985	...	...	...	...	...	...
GRAND TOTAL	1	417	5	2,070	8	1,004	4 & Det.	2,301	9 & Dets.	6,179

The total strength of the force is—

1		417
5		2 070
8		1 004
4	stry	2 301
9		6 179
Total		<hr/> 11 971 <hr/>

2 *The Central India Horse* has been under the command of Major Martin, the Commandant, Colonel Watson, C B, V C, being on furlough Both Corps maintain the efficiency for which they have always been famous

3 *Bhopal Battalion*—The average strength of the regiment for the year has been 937 men The average number effective at head quarters has been 665, of which 112 have been on duty duly Eighteen detachments numbering 541 men in all proceeded on command or escort duty

The health of the regiment has been good the average proportion of sick being 1 4 per cent of the strength Six deaths occurred during the year

The conduct of the men was satisfactory, only three summary trials were held during the year

The Battalion has been frequently exercised at skirmishing and out-post duty, and has gone through the usual parades and drills

Major General Montgomery, C S I, inspected the regiment in October 1874, and expressed his satisfaction

4 *Malta Bheel Corps*—The total strength of the regiment on the 31st March 1875 was 593 of all ranks made up of men of different castes as follows —

Bheels	361
Nail s	123
Bunjaras	9
Other castes	100
Total	<hr/> 593 <hr/>

The head quarters of the regiment are at Sirdarpoor, and five permanent detachments aggregating 137 of all ranks are furnished The general health of the regiment has been good the number of admissions to hospital during the year was 316, the daily average of sick being 10 96 or nearly 1 83 per cent

The present scale of pay was laid down when prices were much lower than now, and no doubt even with the benefits of fixed head quarters there is not much to induce good men to enlist

The regiment was armed during the year with the short Enfield rifles, and the new rifle range has been nearly completed by the labor of the men The new weapon is liked by the Bheels, who give promise of becoming good marksmen

The regiment was inspected in December by the Major General Commanding Mhow Division, who expressed his satisfaction at the improvement he noticed

The regimental school shows a fair average attendance, and the balance in the Savings Bank has been increased from Rupees 2,660 on the 31st March 1874, to Rupees 3,660-10 on 31st March 1875.

The conduct of the men has been good.

5. His Highness Maharaja Sindia had a camp of exercise for the training of his troops as in the previous season. The force assembled this year was made up as follows :—

Artillery	...	...	...	...	8 batteries.
Cavalry	...	...	...	...	2,000
Infantry	...	...	...	...	5,000

The attendance of His Highness at Baroda caused the camp to be broken up somewhat earlier than was intended.

CHAPTER XI

MISCELLANEOUS

SECTION I — *Boundary disputes*

There has been abundant occupation for the Boundary Settlement Officer in Western Malwa. Lieutenant Hope, Third Assistant Agent to the Governor General, was employed on deputation with His Highness Maharaja Sindia for a time, but 14 cases were disposed of by him, of these only two were appealed.

The Political Agent, Bhopal, reports that 41 cases have been settled by Captain Dalrymple.

In the Bheel Agency eight disputes were settled, four of them of very old standing, there was no appeal. Captain Blowers completed the demarcation of the frontier between the Central India Agency and the Rewah Kanta (Bombay) districts. No appeals have been received.

SECTION II — *Hospital and Dispensaries*

2 The following Statement shows in an abstract form the working of hospital and dispensaries throughout the Agency —

	1874 75		
	Admissions	Deaths	Vaccina- tions
Malwa Dispensaries	41 018	268	3 029
Gwalior do	9 763	38	2 161
Bhopal do	13 750	85	5 552
Bundelcund and Baghelcund Dispensaries	5 172	106	28 061
Other Dispensaries—Mhow, Maunpoor Bheel Agency, and Native States	41 751	305	598
Total	114 454	802	39 401

3 Returns have been received from 16 dispensaries in Native States which are not supervised by British Officers. From the hospital at Jowrah, which is good, no returns have been received. More than 27,000, or over two-thirds of the total number of vaccinations reported in the Agency, appear in the returns of the 30 Native States dispensaries of Bundelcund.

The Political Agent remarks on the difficulties which vaccination has to contend with in the prejudices and superstition of the people. Many of the Chiefs and Thakoors are striving to subdue these by submitting to vaccination themselves and bringing their children for the operation. In the Durbar which was held during my

tour, the vaccinator was allowed an honorable place, and during my visit many hundred children were treated. The Maharajas of Adjeyghur and Bijawur were specially converts to the saving power and freely advocated its use. The Maharaja of Punnah has been in this question as in others, which are beneficial, prominent in help. The Ranee of Chutterpoor also invited the vaccinator to vaccinate the infant Maharaja. Dr. Stratton has good ground for congratulation in the result of his influence. He states that the cost for vaccination in Bundelcund has been, as far as returns have been received, Rupees 8,241.

4. His Highness Maharaja Sindia has given a fine building to which the Lushkur Dispensary has been removed. It is distant from the city, but probably a branch dispensary may be opened in the Lushkur itself.

5. The Goona Dispensary has been valuable to the people, 1,229 patients were treated during the year. The buildings are inadequate to the wants of the district, and improvements are necessary. Application has been made to the Gwalior Durbar for the necessary funds.

6. Dr. Beaumont, the Residency Surgeon and Superintendent of Malwa Dispensaries, supplies a valuable narrative of proceedings in the dispensaries which have the benefit of his rare energy and vast experience. In the Indore charitable hospital alone Dr. Beaumont during the year has treated nearly 10,000 out-patients, and the daily average of in-patients has been 61.86. His success as an oculist has made this institution famous throughout the breadth of Central India. There is also a Leper Hospital attached in which that disease is treated with happy results. The Raja of Dhar, seeing Dr. Beaumont's earnest interest in relieving suffering, founded the Leper Hospital. The Chiefs of Gwalior and Indore in like manner liberally contribute to the support of these institutions. In Malwa alone upwards of 50,000 people present themselves for treatment. Sindia and Holkar are alike liberal in these matters, and never turn aside from any application which I have occasion to make in support of hospitals. Holkar readily gives Dr. Beaumont all countenance in diffusing vaccination, and desires to build for the city of Indore a large hospital, and place it under Dr. Beaumont's supervision.

7. There is no room for doubt or suspicion in the working of dispensaries, and their civilizing influence cannot be over-estimated. To them we owe much of the kindly feeling which undoubtedly exists personally towards British Officers in Native States. Wherever the influence of a dispensary, with its healing comforts is felt, we may be sure that our countrymen stand well with the people generally.

(Sd.) H. D. DALY, *Major-Genl.,*
Agent, Govr-Genl., Central India.

From—Residency Surgeon, Indore,
To—Agent to the Governor-General for Central India.

I HAVE the honor to submit the returns of the Malwa charitable dispensaries for the year 1874, and have much satisfaction in bringing to your notice the large increase in the total number of patients treated during the year—43,760 against 36,939 in 1873—and this increase, too, in a year marked by the absence of any epidemic disease.

The percentage of the principal diseases is very much as usual, fevers still furnishing about 20 per cent of the admissions. From the return of the Charitable Hospital, Indore, where fever cases formed 25 per cent of the patients, it might be supposed that fever was more than ordinarily prevalent at Indore, but this is not so, as the returns of the city of Indore Dispensary shews only 16·7 per cent of fever cases. The greater number of such cases coming to the Charitable Hospital being attracted there by the very successful treatment of the disease by the subcutaneous injection of quinine, which has become widely known, and so much appreciated that many of the patients would decline to be treated in any other way. Often parents bring children suffering from fever, and when it is proposed in consideration of their age, to give the child the ordinary quinine mixture, they refuse it, saying why don't you give it the injection which will cure it at once. By the way, quinine may be injected subcutaneously quite as safely in very young children as in grown up persons.

Indore Charitable Hospital—This hospital, which is the largest in Central India, and possibly the largest of any except those in the Presidency towns, is in the station of Indore, and as it is under my immediate charge, I am glad to have to bring to your notice year by year its steadily increasing importance and usefulness. In the past year 9,409 sick were treated as out door patients, an increase of 55 per cent on the number of the previous year, and 1,029 as in door patients, in these there was also an important increase in the number of cases of the more serious forms of disease, or injury requiring surgical operation, also in eye cases, specially cataract cases, requiring extraction for their relief.

Until this hospital became so established in the public estimation, many cases of curable disease must have died, and many dragged out a miserable existence of pain, suffering, or life long blindness, who are now relieved at this institution.

The progress of the hospital and the importance of the work done of late years will be seen from the return of the totals of major operations for the past two years.

Major Surgical operations

1865 operations	11	1870 operations	44
1866 "	15	1871 "	48
1867 "	18	1872 "	61
1868 "	34	1873 "	115
1869 "	38	1874 "	172

The results of the operations of the year, as will be seen from the detailed return, were very successful, and I might easily have made them much more so by simply avoiding to operate in a few desperate cases which gave the greater number of the deaths, but I consider it my duty to operate in all cases if the patient wishes it, when there is a possibility of saving a life, which, if left alone, must necessarily be lost.

Phagedenic or sloughing ulcers, which formed so disagreeable a feature in the returns of the past few years, have been considerably less prevalent and not of quite so severe a type. During the year 151 cases were treated in this hospital, of these 12 cases were amputations,

but, as a rule, the patient would not agree to the operation being done while there was a fair chance of success; many of them preferring to die rather than lose a limb.

Of these amputation cases six died; all the deaths after amputation during the year occurring among them. Such cases spoil the returns of results of operations.

In the past year a much needed addition has been made to the hospital by the erection of a building for the out-patient department which, with the dispensing room, formerly occupied the large central ward of the main hospital building. This ward being now available for house patients, I have been able to put the sick into it, which were formerly kept in a temporary grass shed, since knocked down.

The new building consists of a male and female waiting-room, a dispensing room, and a prescribing room, which latter being well lighted serves also as an operating room. The building is so arranged that the patients are admitted separately from the waiting to the prescribing room, where their cases are enquired into, and a prescription given, which they take back to the waiting-room, hand the prescription through a window to the compounder in the dispensing room, and receive their medicines. This arrangement is especially valuable for women, as it prevents any pushing or scrambling for admission or medicines, or any contact with the male patients whatever.

These arrangements for their privacy and comfort will no doubt encourage them to come in greater numbers. The ordinary way of seeing the out-patients in a common waiting-room, and enquiring into their cases before a number of on-lookers and listeners, is, I think, most objectionable.

The Leper Hospital noticed in my last report in connection with the Charitable Hospital as being built, and endowed by funds supplied by the Maharaja of Dhar, was completed and opened for the reception of patients early in January. During the year 32 patients were admitted, of them two were in last stage of the disease and died within a month. Many of the cases were wandering beggars, who stayed a month or two, till they were rested, refreshed, and any troublesome sores healed, when they disappeared without asking leave.

As I was not able to procure gurjun oil till nearly the end of the year, the lepers were treated with a combination of arsenic, iodine and iodide of potassium, which I have used for many years, and under this treatment all the cases improved more or less, some so much so that they left considering themselves cured, though not quite so as the anæsthesia had not altogether disappeared.

As but little is generally known of leprosy, a short sketch of the disease will not be out of place here.

Leprosy has been known from the most remote ages, and although it has now almost disappeared from the more civilized parts of the world, it is still one of the most widely spread maladies which afflict the human race. Leprosy was known in Italy about the Christian era, after which it increased and spread so extensively that from the eighth till the twelfth century it was very prevalent throughout Europe generally, the

The debt is now about a year's income, and establishments are in arrears. Instead of all revenue being brought to account in the Central treasury and disbursements being made therefrom, various talookas or groups of villages are now placed under special management for the expenses of particular departments, one such group being for the payment of the debt.

If the programme for the latter object be carried out, the plan may answer, and the same may be said of the other assignments, if their declared principle, viz., that no department is to spend more than its allotment, or contract any new debt, be really maintained. But there is no guarantee for an intelligent and careful working of the scheme on these principles, and grounds of confidence are wanting, as the officials of these separate charges are mostly untrained men of the old stamp, appointed by the Chief, and also as there is no certain check on expenditure by himself.

Practically, the plan almost removes those men from the control of the Durbar officers, and renders it nearly impossible for the latter to exercise supervision, or even to keep the State affairs connectedly in view as a whole.

The risk is that things will slide, till the results of these separate charges, when brought together, are found to give a general result worse than expected.

At the capital there have been great improvements of late years.

The State has recently done good service in arresting a number of dacoits of adjoining territory.

7 *Sumptur* —The condition of the insane Chief is unaltered.

8 *Punnah* —The intelligent young Chief goes on well.

Of the construction of the Bīram Ghât as a work meriting notice for its magnitude and importance you had an opportunity of judging by personal inspection last cold weather.

9 *Ajighur* —There is little to note except the old struggle to clear off debt. Plans are fair but imperfectly carried out and seasons have been adverse.

Under such circumstances, however, the work on the Singpoor Ghât which you lately saw is the more creditable.

Small pox raged about Ajighur. Enquiry was made in the capital, independent of the vaccinators, with the following result —

Out of 181 vaccinated children who were traced, 131 had been successful, and of these only 3 got small pox mildly, while out of the 50 unsuccessful and hence unprotected cases, 25 were attacked, of whom 6 died.

10 *Chirkhari* —The young Maharaja having, in 1871, completed his 21st year, was invested with authority. He is not wanting in intelligence, but as he had evinced a disposition abruptly to upset arrangements made during the Government supervision of the State and to oust or reduce the principal officials of the long minority with respect to their service under his father or during our superintendence, an English Captain I. Mantland, was deputed to Chirkhari for a time as a friendly adviser whom the Chief should consult in matters of importance.

From one danger incidental to young Chief's coming into power after a minority, *viz.*, that of squandering his accumulated treasure, he is likely to be free as he is careful in money matters, if indeed his tendency do not lead to the opposite danger of stinting legitimate expenditure on proper objects, such as fair remuneration to his officials and outlay on improvements, &c.

11. *Bijawur*.—The Chief was absent for half the year on a series of pilgrimages.

Pecuniarily, the result has been—establishments in arrears, and work suspended on an important road, which might have been finished, and in which the Chief at first expressed much interest.

12. *Chutterpoor*.—Is making quiet but steady progress under the superintendence of Chonbey Dhunput Rae.

Hard times had told on it for several years, when there was a difficulty in balancing expenditure with income, but matters are now better and the balance on the right side.

A good deal has been done by the Superintendent in the way of tanks, roadside trees, and wells on the principal routes.

It has been my endeavour to get a series of old tanks near Nowgong repaired and improved, and proper irrigation outlets and channels made, partly as an example from which such works might gradually be repeated throughout the district. One very fine tank, re-named after the late Chief, Jugut Sangor, has thus been completed, and will irrigate a considerable area, while the sluice arrangements are such that no water need be wasted, as it can be let on or turned off in a moment.

The little Raja, now eight years old, though still a delicate child, is more than usually intelligent and self-possessed, with a touch of quaintness in his ways.

He takes to his lessons well—knows a little arithmetic, reads Hindi fairly, and occasionally writes me a letter in fine bold Nagri characters, half an inch high, and capitally formed.

13. *Baonee*.—The series of bad years continued here in full severity. Fields on fields, ploughed and sown for the spring crops, remained, through the failure of the winter rains, as bare as when the sod was first turned, or produced just enough to show that they had been sown.

From a variety of causes the revenue, for several years past, had been reduced to nearly one-half of its proper amount.

As the Nawab's health unfitted him for exertion, and his brothers had failed to keep matters right, the State has now, at the Nawab's request, been taken under supervision during his son's minority.

As it is to be expected that the series of bad years will not be indefinitely continued, and expenditure has now been brought within income, it may be hoped that, with a return of more favorable seasons, the State will recover itself.

14. *Jignee* and *Logassi*, both under the superintendence of Rai Parmeshri Dass, are doing well, though the spring crop suffered so severely in the former that the zemindars petitioned for entire remission of rent.

III — JUDICIAL

15 *Tabular Returns* — Separately submitted

Suttee, Sumadh, Julpurwa — No case occurred

Rajpoot female infanticide — During the year the births among the Parihars of Jigni have been seven boys and five girls, of which latter one was still born. Of the remaining four, one died of disease when a month old. Of the children born in previous years one boy died, but no girl.

Of children born since supervision and registry began, there now survive 57 boys and 31 girls.

Robbery of Government mails — None

Robbery of cash in transit — None

Kidnapping girls — No case came to notice

Dacoity — Seven cases were reported. Of these five were in Tehree by our Lullutpoor dacoits, Rundheer Sing and gang, whose destruction by the police since the close of the year has been already noticed.

In those cases four men were killed, some 18 wounded, and property worth about Rupees 10,000 carried off.

One of the other cases was in Bijawar ilaka. The dacoits were interrupted, and most of them have been subsequently arrested.

The remaining case was a petty one in Punna ilaka, and two men were arrested.

16 In last report I noticed the Hirapoor dacoity, committed mainly by the Puar Thakoors of Jigna in the Jhansie District of Gwalior, and adverted to the gross manner in which these men had for years been allowed absolute impunity for habitual and notorious dacoity and murder.

I mentioned also the cordial assurances of the Officiating Resident at Gwalior that his best efforts would be given to bring this state of things to an end.

Though the local officials, at starting in this case, followed their old line of conduct,—first delaying to act when requisition reached them—next, making a pretended enquiry, as the result of which, they reported the Thakoors innocent and did nothing,—and then, when peremptorily ordered from Gwalior to arrest them, proceeding in such way and allowing such warning that every man inevitably succeeded in absconding,—yet the result of the Resident's action was marked.

Instead of the dacoits openly continuing unmolested in their villages, as hitherto, in spite of requisitions for their seizure in various cases, parties of Gwalior troops and police were employed for their capture.

Although during the year success was not great, yet the position was changed, for the dacoits had had to leave their homes, and go into hiding as proclaimed offenders.

Without the ægis now of open protection by the local officials, they were thus more liable to fall either into the hands of the special

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parties posted by the Gwalior Durbar, or of the authorities of adjoining and intermixed territory, in which there was a long reckoning of plunder and murder against them.

In the Hirapoor case there were a dozen Gwalior men, of whom up to the close of the year the Gwalior police secured one.

Since the year ended, however, seven have been arrested by the adjoining Duttia authorities.

Gwalior has also, at the instance of the Resident, arrested a number of men charged in previous cases of dacoity, &c., but hitherto untouched in spite of ample evidence.

Gwalior police and troops can prove themselves active and successful enough against dacoits, and the notorious immunity so long enjoyed by the Jigna Thakoors is, whatever its origin, the more remarkable.

17. *Thuggee by drugging*.—Two cases came up. In one instance cloth worth Rupees 20 was stolen during the insensibility of the owner, who eventually recovered.

In the other case property worth Rupees 18 was taken from two men, one of whom died, while the other recovered.

In both cases the perpetrators escaped. Those who thus practice drugging for purposes of theft do it on travellers they have joined *en route*. Having drugged the food of their companions, they go off with whatever is worth taking, and are many miles away before their victims recover or are discovered. Too often no trace of their movements can then be got.

Sonoreas and *Chunderbedis*—professional pilferers in Tehree and Duttia. The register shows 12 to have died, and 14 absconded, in the year, leaving 154 under surveillance.

IV.—REVENUE.

18. The *revenue* of most of the *Native States* suffered unavoidably from the defective harvests.

The *Government tribute* was unaffected.

The following items of *succession nuzzerana* were realized :—

	<i>Rs.</i>	<i>a.</i>	<i>p.</i>
From Sarila, last instalment	... 5,000	0	0
„ Kamta Rijola	... 469	0	0
„ Chutterpoor, first instalment	... 11,107	10	0
Total	... 16,576	10	0

V.—EDUCATION.

19. *State Schools*.—Returns are yet incomplete, but those received are for 39 schools showing the following aggregate :—

Average daily number of scholars, 1,092.

Total expenditure, Rupees 18,009.

Most of the teaching is in Hindee and next to that in Urdu is taught only in the schools of the principal States English The Rajkumar College at Nowgong, for which preparation 20 During the year, has been opened since its close was made du may be hoped, its influence in future on young Chiefs and If, as m es should make even a moderate approach to the greatness their associat for such instruction as will here be available, this institu of the need o prove one of the most important measures of improve- tion ought t ed in Bundelcund in recent years ment attempt

VI.—PUBLIC WORKS

21 *Imperial Military*—At Nowgong Cantonment no new works of important unction in progress, but Rupees 17,641 expended on repairs and petty consti

Imperial Civil—Rupees 1,407 expended on Treasury Guard house and Kutchery verandah

22 *Imperial communications*—Expenditure Rupees 78,159 on the Imperial roads Most of this was on the line from Nowgong to the railway at Sutna The upper part of the Murla Ghât still remains the missing lin k on this line, preventing really *through* traffic

The temporary stone causeways and trestle bridges provided last year at the great unbridged rivers—the Sind, Betwa, Dessan, and Kan— have been of the greatest convenience all through the fair season

23 *Native State Works*—Returns from 24 districts indicate an outlay of Rupees 1,12,781

The principal items in order of magnitude were in Punnah, Oorchah, and Chhâr

In Oorchah (Tehree) a good deal has been done of late years in improved on pucha causeways over streams t on roads Unfortunately the latter l scattered, and with too little uniformity of plan to produce the full result for the outlay which might have been presented, had more regularity and system been preserved

During the cold season I got an entirely new road marked out through the old, and once considerable, town of Jatara, along the main street of which it was difficult to get a cart, while to meet one, or a camel, w is a danger

In Punnah, I have already noticed the Bisram Ghât between the Vindhya tableland and the Banda plains stretching northward to the Jumna, which is under construction by the Maharaja It is certainly the best and most important single work attempted in recent times by any Bundelcund Chief, and the one which will be of most marked use, as it makes all the difference between cart traffic being, or not being, possible, in that quarter

It is higher and more difficult naturally than the Murla Ghât on the Imperial road, but its gradient now, of 4 in 100, will be quite as easy, and it opens up the country in a different direction.

Though much finishing work yet remains in hand, the road, as you saw last cold season, is already open to carts.

In *Ajighur*, the *Singpoor Ghât*, the commencement of which by the Chief was mentioned last year, was also, as you saw, opened during the cold weather, though much finishing work remains.

About one-third as large as the Bisram Ghât, and over easier ground, it is for Ajighur communications the natural complement of that other and larger work,—as the road from Ajighur below to the tableland above is now easy over the Singpoor ridge to the Bisram Ghât.

In *Chirkhari*, expenditure had hitherto been liberal on public works, the result of which is apparent in the fine tanks constructed and repaired, the magnificent school, and the handsome bazaars being opened up at the capital.

The Chief on accession to power left the latter nearly at a stand-still. Fortunately most of the tank designs had been completed. The good roads already made about Chirkhari await the co-operation of the adjoining British district in similarly improving their continuations there.

VII.—POST OFFICE.

24. Returns received from the Inspecting Post Master are incomplete; as for the four principal offices out of the eleven in the Agency there is no record of the number of letters, &c., despatched.

The aggregate of letters, &c., issued was 147,148. Of those received for despatch the returns are incomplete as above:—

			<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Cash receipts	...	...	5,315	2	3
Disbursements	...	...	5,680	15	8

VIII.—TELEGRAPH.

25. None in Bundelcund, but much needed.

IX.—MILITARY.

26. The Nowgong garrison consists of—

G.-11 Battery Royal Artillery.

Two Companies, Her Majesty's 63rd Regiment.

Two Squadrons, 3rd Bengal Cavalry.

Wing, 20th Madras Native Infantry.

The troops have been healthy. Separate tables of strength and health are submitted.

The British troops are in the new station, somewhat crowded and inconvenienced owing to the non-completion of some of the remaining

barracks, work on which has been entirely stopped, and which, left open to successive monsoons, stand an unexpectedly prolonged test of the excellence of their foundations and mortar. As one or two of the buildings most needed are within an ace of completion, and all material needed is in stock, though deteriorating, the advisability and economy of completing these is a perfectly separate question from the policy of going on with all the buildings originally planned.

X—MISCELLANEOUS

27 *Dispensaries*—Returns of 12 Native State institutions and the Nowgong dispensary, which latter is the only one under European medical supervision, give—

Admissions	12,883
Deaths	190

The cost of the dispensaries, so far as returns received show, was Rupees 7,596

28 *Vaccination*—The returns received through Dr Watson give—

Total vaccinations	27,545
Of these were successful	22,542
Unsuccessful or doubtful	3,636
Result unknown	1,367

The largest numbers were as follow in—

Duttia	5,552
Punnah	4,368
Oorcha	3,812
Chutterpoor	3,010
Bijawur	2,137
Chirkhari	1,976
Sumptur and Umra	1,388
Ajighur	1,036

As compared with last year, there was an increase in Duttia and Oorcha, &c, and a decrease in some others, the principal decrease being 1,103 in Chirkhari

Cost, so far as returns received show, Rupees 8,241

29 *Vaccination* has many difficulties to contend with in the beliefs, customs or prejudices of the people

eg—There is the general belief of Hindoos that small pox [Mata or Devi] is a manifestation of the Goddess Devi, and therefore not to be interfered with

This latter view admits of some modification as, in their own experience, they see every gradation of the disease from the slightest to the severest and fatal form, and although inoculation in the ordinary way was not practised in Bundelcund, yet a mode of inducing the disease artificially, as a preventive of its severer natural attack, was occasionally attempted by mothers who, when the disease was prevalent in their neighbourhood, would dissolve or mix up a small pox scab in water, and give it as a drink to a child not yet attacked, in the belief that it would induce a mild form of the disease, and was falsified by the result as in ordinary inoculation

But it takes some time for them to credit that the vaccine eruption may be regarded as practically the same, merely modified by transmission through their sacred animal—the cow—deprived of its danger, and confined to a single spot.

Among the stories occasionally heard is one, known also elsewhere, that the operation on the arm is to discover a child with white blood, who is to appear and work great things, and whom consequently it is an object of the authorities to discover and secure. The looked-for child is variously expected by those Hindoos among whom such stories circulate to be a Shak-Karta, a mighty king who will found a new era, or by Mussulmans to be some great Imam.

Ignorance is a chief basis of both the prejudice and credulity. When it is pointed out that inoculation has long been practised among Hindoos in some parts of India and the Himalayas, and that it was actually learnt from the Mussulmans of Constantinople by the English before the discovery of vaccination, and that this latter is simply the substitution of a safer method of attaining the same object, both Hindoo and Mussulman can see that the measure is not wholly a frankish innovation from which they need shrink.

Even when a child has been vaccinated there are still more than ordinary risks against success, as mothers often wash and scrub the arm immediately after getting home. This practice has doubtless a good deal to do with the considerable proportion of unsuccessful or doubtful cases.

Example and notably that of their own Chiefs is however better than any amount of precept for the bulk of the people, and it is owing to the Chief's example, countenance, and pecuniary support that so much is possible in the face of all those difficulties.

During last cold season the Maharaja of Oorcha had his daughter and nephew vaccinated; the Maharaja of Ajighur his two sons, and the Jaghirdars of Dhoorvy and Bijna had each a son and two near relatives.

At Ajighur the operation was more than voluntary. It was specially solicited. The Chief had recently seen the child of one of his Sirdars lly ill with the disease and the sight struck home. His eldest son ~~been~~ vaccinated, but unsuccessfully, the previous year, so he had the tion repeated on him and performed also on his second son.

Reference has already been made (in paragraph 10) to the investigations at Ajighur and elsewhere to ascertain and exhibit locally the protective result of vaccination as practised in these parts.

A somewhat marked case occurred at Chutterpoor. The Kotwal of the city, a Mussulman of position, had all his children vaccinated except one, who was reserved by the females of the family from the operation. Epidemic small-pox visited the town and took that one, leaving the others untouched.

30. *Boundary Settlement.*—The appointment of boundary officer has been unfilled now for a couple of years since Captain Blowers' departure.

Captain Vincent, of the Central India Horse, came for a few months in the cold season and disposed satisfactorily of a number of cases.

But in view of the vast mileage needing settlement or demarcation, the desultory way of dealing with it by an officer occasionally

deputed in the cold season, and liable to change each time, does not meet the circumstances of the case for which an officer was authorized

It barely keeps pace with the number of fresh cases arising, and thus leaves the Agency overburdened with a scarcely decreasing mass of most troublesome disputes, which, if steadily taken up, and kept in hand by an officer for a few years, might be cleared off

The former points are illustrated by the following figures —

Disputes on file at close of 1873-74	102
New cases in 1874-75	14
	<hr/>
Total	116
Settled in year	17
	<hr/>
Disputes left at end of year	99
	<hr/>

An officer deputed temporarily in the cold season requires a little time to become acquainted with the work and district, &c, so that on his first coming part of the season is lost, and he goes away again just when he has become familiar with the duties, necessarily also leaving various matters in progress, the completion of which should be by him, and the proper clues to which when reference comes up to the Agency during the recess are wanting. The like occurs again the next year that an officer is thus temporarily deputed. In fact there are the same inconveniences and hopelessness of ending them which existed formerly in Malwa and Bhopal when that plan was followed there, and which led to the appointment of boundary officers in those parts as subsequently also authorized for Bundelcund

31 Besides the officers already mentioned in previous paragraphs, there remains to be also favorably named Captain L Temple, Political Assistant, Cantonment Magistrate, Judge of Small Cause Courts, &c, &c

Health of troops at Nowgong from 1st April 1874 to 31st March 1875

TROOPS	Average strength.	Total admission to hospital	Percentage of admission to strength	Average period in hospital of each admission	Deaths	Percentage of deaths to strength	Cause of death.	REMARKS
G 11th Royal Artillery	150.5	333	222	14.42	5	3.33	{ 3 fever 1 accidental 1 suicide	
Her Majesty's 63rd Light Infantry	177.3	374	211.29	11.39	3	1.69	{ 1 purpura simplex. 2 abscess of liver	
3rd Bengal Cavalry	2.6	277	100	11.57	None.	None	None	
Right Wing 20th Madras Native Infantry	235.43	624	219.61	11.609	3	1.05	{ 1 acute bronchitis 1 " ascites 1 unknown, when marching by himself from Banda to Nowgong	

Table of rainfall and temperature from 1st April 1874 to 31st March 1875.

Year 1874-75. Months.			Mean day temperature.	Mean night temperature.	Mean tem- perature of month.	Total rain- fall.	Prevailing wind.	REMARKS.
April	1874	...	91°22	84°20	87°71	Nil.	North-west and south-east.	
May	"	...	98°54	86°61	92°37	Nil.		
June	"	...	95°40	83°46	89°43	Inches.Tenths. 11 4		
July	"	...	87°32	71°70	79°51	10 3		
August	"	...	83°51	79°74	81°61	25 1		
September	"	...	90°70	80°43	85°56	4 9		
October	"	...	81°83	69°03	74°93	Nil.		
November	"	...	77°89	54°60	66°24	Nil.		
December	"	...	70°77	57°19	63°90	Nil.		
January 1875	"	...	69°74	57°80	63°77	Nil.		
February	"	...	73°90	62°46	68°21	1 2		
March	"	...	85°81	73°96	79°38	Nil.		
Total	...	...	1006 69	860 18	931 62	62 9
Average	...	...	83°89	71°68	77°63	...

(Sd.) J. P. STRATTON,
Offg. Political Agent, Bundelcund.

APPENDIX D.

No 207, dated Baghelkund Agency Sutna 24th April 1875

From—MAJOR P W BANNERMAN Political Agent of Baghelkund

To—MAJOR GENL SIR H DALY Agent to the Governor General for Central India Indore

I HAVE the honor to submit the Annual Report of the Baghelkund Agency for the year 1874 75

CHAPTER I

1 The districts under this Agency kept singularly free of disease, with the exception of an epidemic of small pox which broke out at Myhere in January, and from which, in consequence of the little support which the Raja gives to our endeavours to introduce vaccination, upwards of 500 people fell victims, until about the middle of March when cholera made its appearance at Sittaha and Sohagee (in Rewah) and working round by Mungowan and Raipoor on the Great Deccan Road reached Rewah on the 22nd Up to the close of the official year there had been in these villages about 300 cases and upwards of 200 deaths It has also appeared at Doorjunpoor, Madboghui, and Sutna It is prevalent nearly all over the districts east of the line of railway, but as yet has not appeared in an epidemic form except in one place west of it The crops were good The khureef was exceptionally favorable, and prices were at least 25 per cent lower than during the previous year The "kodoo" and "kootkee" crops, on which the poorer classes live, were very good The rubbee with the exception of the "urhur," which suffered from frost, was also ample

2 There is no cases of "gang dacoity," of "suttee," or "sumadh," nor any robbery of Government mails within this Agency during the year under review

CHAPTER II

CONDITION OF NATIVE STATES

3 *Rewah*—The state of affairs at Rewah have, as you are aware, been drifting from bad to worse during the year under review, in spite of every effort to keep the Maharaja alive to the responsibilities of his position The debts of the State have increased, the revenue, though collected from the ryots, never reached the State Treasury

4 I assumed charge on the first day of the present official year Arrangements are being made to introduce into the administration a better system Enquiries are being carried on into the liabilities of the State, as also into the sums due by various parties to the State, but the accounts are in such a confused condition, and there is such great unwillingness on the part of many of the officials to give efficient assistance in unravelling them, that this will be a work of time, and reports on each matter will be furnished hereafter

5. *Nagode*.—It will be remembered that the administration of this State is being conducted by myself, the young Raja Jadoo Bhindr Sing, and the old Chief with more authority and thrown more responsibility entrusted the upon him. He is always most ready to listen to advice, and has done fairly well.

6. The old Minister, Sheodeen Panday, resigned, as he found neither his strength equal to the duties he was called on to perform, but his place has been admirably filled up by Moulvee Tufuzzul Hossein, who, for years, had so successfully aided the Myhere Chief in his administration. The choice was the young Chief's own, and I was only too glad to concur being well acquainted with Tufuzzul Hossein's attainments. I have kept a watchful eye on the expenditure; the Chief is by no means extravagant, and is using his best endeavours to get the State out of debt.

7. *Myhere*.—The administration is well conducted on the whole. The Raja is a Chief who looks into every matter, great and small, himself, and is better acquainted with everything connected with his State than the majority of men in his position.

The State is free of debt and flourishing.

8. *Solawul*.—There is little to add to last year's report in regard to this Chief.

9. *Kootee*.—The Rais of this small estate, ably assisted by his Kamdar, manages matters well and satisfactorily; his ryots are contented and fairly prosperous.

10. *Sidpoora*.—The condition of affairs in this small estate (which is being managed by this Office) has been satisfactory under the careful supervision of Mahomed Oomar, Superintendent.

11. A settlement for three years has been made; the increase in the revenue therefrom has been very slight, but the ryots have a sense of security which they never had before.

12. The receipts and expenditure have been as follows:—

		Rs.	a.	p.
<i>Receipts</i> .—	Balance of last year ...	...	4,219	4 10
	Collections during the year ...	...	7,507	9 4
	Total	...	11,726	14 2
<i>Disbursements</i> .—	(1) Establishments ...	1,422	0	0
	(2) Allowances to family of late Chief ...	2,614	2	8
	(3) Repairs to buildings ...	50	0	0
	(4) Pensions ...	131	0	0
	(5) In liquidation of debts	1,757	0	3
			5,974	2 11
Balance on 31st March 1875		...	5,752	11 3

The <i>debt</i> of the estate as known on 1st April 1874 was	38,113	0	0
During the year claims were registered amounting to	5,634	3	9
	<hr/>		
Total	43,747	3	9
Out of this amount 16 claims aggregating Rupees 9,220-11-9 were either thrown out as not being legitimate charges or were compromised The amount thus expended was	1,757	0	0
	<hr/>		
Leaving a balance of	41,990	3	9
	<hr/>		

I have no doubt that on investigation I shall be able to reduce this amount very considerably

CHAPTER III

13 *Civil Justice*—No suits of a civil nature are brought before the Political Agent's Court

14 *Criminal Justice*—The Statement in the margin shows the

Nature of offence	Number of cases	Persons implicated
Murder and attempted murder	1	1
Culpable homicide	3	5
Total	4	6

number and nature of cases brought before the Political Agent's Court during the year 1874-75 The Rewah State having supreme jurisdiction, this Statement only notes those cases occurring within the minor States of

Nagode, Myhere, Sobawul, and Kotee, or in which British subjects were concerned

15 *Punishment of whipping* was not inflicted during the year under review.

16 *Police*.—The Agency Police located along such portion of the East Indian Railway branch line as runs through the Native States under this Agency conducted their duties well Its strength and cost are as follows —

Strength 48, cost Rupees 5,938 per annum

The conduct of the men has been good.

17. *Jails*—There are none under the control of this Office In the Native States those at Nagode and Myhere are fairly good, the prisoners are well housed, sufficiently fed, and as a rule well looked after. In Rewah under the late administration everything was bad in respect to the jail arrangements

18 *Local Funds*—There are none under the management of this Office

19. *Education*.—The schools at Nagode and Sohawul and Kotee are fairly attended, but not much interest is taken in them by the Chiefs themselves.

CHAPTER IV.

PUBLIC WORKS.

20. *Military*.—A few trifling works in the cantonment of Nagode were completed.

21. *Civil Works*.—The Agency Police Lines at Sutna were completed, and fair progress made in the construction of the subsidiary buildings to the Agency Hospital.

Communications.—Considerable progress has been made on the Sutna Bela Road. The entire earthwork is completed; the trestle bridge over the Tons was completed early, and has been a great convenience; the large bridges at Doorjunpoor and Rampoor have made such progress that there is every reason to hope they will be completed before the rains. Much and satisfactory progress has been made at bridge over the Umrahun close to Nagode, but as these works will be noted in the Executive Engineer's own report, I need not enter into further details here.

CHAPTER V.

POST OFFICES.

22. There are nine Post Offices at present within the Baghelkund Agency, and the Return below shows the work done by each:—

Name of the place where the Post Office is situated and division.		Number of letters, papers, books, parcels, &c., &c., for	Number of letters, papers, books, parcels, &c., &c., for	Total.	Cash Receipt.	Cash Disbursements.
		Despatch.	Issue.			
Sutna, Allahabad Division	...	68,640	58,560	1,27,200	Rs. a. p. 1,067 8 11	Rs. a. p. 1,224 0 0
Bewah ditto	...	16,140	12,264	28,404	646 1 0	432 0 0
Govindghur ditto	...	2,292	2,676	4,968	120 14 6	207 8 0
Madhoghur ditto	...	840	378	1,218	48 1 0	65 0 0
Uchara ditto	...	1,836	1,476	3,312	47 11 0	120 0 0
Sohawul ditto	...	2,340	1,892	4,232	49 7 6	120 0 0
Sokhye ditto	...	1,300	1,709	3,009	130 4 6	64 0 0
Myhere ditto	...	23,395	15,020	38,415	1,744 9 2	416 0 0
Nagode ditto	...	33,792	34,291	68,083	1,102 14 9	only for receipt.
Total	...	150,575	128,266	278,841	4,957 8 4	2,648 8 0

CHAPTER VI.

TRILOBARUS.

23. There is no Government Office at Butna, and the Agency and public generally have to depend on the Railway Telegraph. It is desirable in many ways that there should be an Office under the control of Government officials.

CHAPTER VII.

SUMMARY

24. The only British Military Force within the limits of the Baghelkhand Agency is that stationed at Dierga and its strength is as below:-

COUNTRY.	AMOUNT PAID,	PERCENTAGE PAID.	PERCENTAGE PAID.
England	1000	100	100
France	1000	100	100
Germany	1000	100	100
Italy	1000	100	100
Spain	1000	100	100
Portugal	1000	100	100
Greece	1000	100	100
Turkey	1000	100	100
Russia	1000	100	100
Sweden	1000	100	100
Norway	1000	100	100
Denmark	1000	100	100
Belgium	1000	100	100
Holland	1000	100	100
Prussia	1000	100	100
Austria	1000	100	100
Switzerland	1000	100	100
Poland	1000	100	100
Czechoslovakia	1000	100	100
Yugoslavia	1000	100	100
Romania	1000	100	100
Bulgaria	1000	100	100
Serbia	1000	100	100
Croatia	1000	100	100
Slovenia	1000	100	100
Hungary	1000	100	100
Czech Republic	1000	100	100
Slovakia	1000	100	100
Poland	1000	100	100
Ukraine	1000	100	100
Belarus	1000	100	100
Lithuania	1000	100	100
Latvia	1000	100	100
Estonia	1000	100	100
Finland	1000	100	100
Iceland	1000	100	100
Faroe Islands	1000	100	100
Greenland	1000	100	100
Arctic Regions	1000	100	100
Antarctica	1000	100	100
Other Regions	1000	100	100
Total	10000	1000	1000

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CHERRY TREE

under the same conditions as the other two, and the same results were obtained. The same results were obtained when the same conditions were used for the other two.

[illegible]

26. The Annual Report of the Dispensaries for the year from 1st January to 31st December 1874 has already been submitted, in accordance with the instructions contained in your Office Circular No. 63 of 29th August 1873. The Table above shows the working of the Dispensaries for the year for which the Report is.

27. The vaccination performed at the different dispensaries is shown below :—

NAME.					Successful.	Unsuccessful.	Doubtful.	Unknown.	Total.	Ratio per cent. successful.
Agency Hospital	...	...	...	...	15	2	...	...	17	89'24
Sutna Bazaar Dispensary	...	...	...	...	45	9	...	0	60	75'
Rewah "	...	...	...	...	55	4	...	...	59	93'22
Nagode "	...	...	...	...	304	69	...	7	380	80'
Total					410	81	...	13	516	81'2

The usual Tabular Statements are appended.

APPENDIX E.

ANNUAL REPORT OF THE WESTERN MALWA POLITICAL AGENCY FOR THE YEAR 1874-75

THE general health during the past year was remarkably good, but the harvests were much below the average. The soil of Malwa requires light rains, and when they are heavy the result is disastrous. Owing to this cause both the rain crop of Indian corn and the cold weather crop of jowar, on which the people depend for their subsistence, were much injured and the bad harvests were succeeded by a partial failure in the yield of opium. Just at the critical moment when the poppy was ready to be operated upon a high wind set in and lasted for several days knocking the plants down and drying up the stalks themselves on the grain, so it is easy to believe that they are in temporary difficulty. The cultivation of opium has so largely increased, and is increasing, that there may be a partial failure in the crop without affecting the budget estimates under that head.

2 There has been no striking occurrence to mark the year. Malwa has enjoyed peace with the exception of dacoities which have engaged a good deal of my attention, not that they were very unusually numerous, but it is a crime which unless traced and punished is apt to increase. The principal actors are Moghnas, their victims landowners of reputed wealth, or merchants with valuable goods, such as opium in transit, and the time of their operations the night. They do not hesitate to commit murder, and having succeeded in their object, disperse to the different States in Central India or Marwar, so that to trace and apprehend them is not an easy matter. Fortunately this Agency has at its disposal Rissakhar May - Jang Puriel, Sirdar Bahadur, a man of intelligence and energy, some of the perpetrators in bad cases have been apprehended and punished, and the crop of crime has been somewhat lessened. A dacoit who had given considerable trouble recently on the Jhallawar frontier, and whose name was mentioned in the report of a skirmish with a party of Moghnas captured and executed him and others, killing one, wounding another, while the rest escaped. The Central India Horse was wounded by a bullet, one horse killed and one wounded. I cannot speak too highly of the services rendered to the Agency by Rissakhar May - Jang Puriel, a man who has been in the service over many years and is a most valuable and experienced officer.

The tranquillity of Malwa is an important subject. The Malwa, being owing to the nature of the soil, is full of dacoits. I have no field force, and I have not the means to send a force. It is my intention to send a force, and I have no doubt that it will be successful.

but while those proved guilty of violence should be punished, encouragement should be given them to settle.

3. In January I proceeded to Neemuch and stayed 10 days. There were two cases committed to the Sessions—the robbery of a sum of money from the Military treasure chest—and a few matters for disposal between Sindia's officials and the cantonment, which I hope I left in a fair way of settlement. Neemuch contains a large bazaar, which will become still more important when connected with the railway. I was much struck with its extreme cleanliness, a good example to the neighbouring States, and due to the supervision of Colonel Dickson, the Cantonment Magistrate, a most painstaking hardworking officer.

There were five appeals from the decisions of the Cantonment Magistrate, four of which were confirmed.

4. *Sindia*.—A short description of Sindia's Government in Malwa will, I hope, not be out of place. It is presided over by the Sir Soobah, residing at Oojein, assisted by a Deputy, the Naib Sir Soobah, and the territory is divided into five zillahs. Each zillah is presided over by a Soobah, having under him two deputies for the conduct of criminal and civil business, styled respectively Naib Soobahs of Foujdaree and Dewanee. Each zillah is sub-divided into four tehsils, each with a Tehsildar and a Deputy, styled Komeshdar and Naib Komeshdar respectively. The official year begins on the 5th June according to the British calendar. The rains are then expected and cultivation to recommence. Establishments are paid bi-monthly. The revenue is collected in four instalments—the first in December after gathering the rain crop of Indian corn; the second in February after the ripening of the jowar; and the third and fourth in March and May dependent on the opium yield. Before the time for the payment of the first instalment Lumberdars are summoned to give the name of some merchant who will be responsible for the regular payment of the revenue, and if approved of, he receives for his remuneration one anna per rupee on the assessment from the cultivators.

On the 8th of June 1874 a Code of Civil and Criminal Procedure was issued, but it is easier to draw up a code than to apply it.

The special business of the Sir Soobah and under him of the Soobahs and Komeshdars is to see to the regular payment of the revenue. The Sir Soobah has no original jurisdiction, but appeals are made to him from the decisions of the Naib Sir Soobah, who submits all cases, civil and criminal, beyond his powers with his opinion. The Naib Sir Soobah is the working man. To him all appeals from the Zillah Courts are made. He has the power to dismiss any functionary except Soobahs and Komeshdars, who, their department being specially revenue, are appointed and can only be removed by the Durbar. In criminal cases his powers are five years' imprisonment and 500 rupees fine; in excess of these he submits with his opinion to the Sir Soobah. In civil suits his powers extend to one lakh; in suits for a larger amount he submits with his opinion to the Sir Soobah.

The Sir Soobah's powers in criminal cases are limited to seven years' imprisonment and 700 rupees fine; in excess he submits the case to the Naib Dewan, No. 4, whose powers extend to 10 years and 1,000 rupees

fine Crimes requiring a greater punishment are submitted for the orders of the Durbar. All cases concerning hereditary rights in the soil are submitted to the Durbar by the Sir Soobah, and cannot be adjudicated in the Courts.

Like the Sir Soobah the Soobahs have no original jurisdiction. They hear appeals from the decisions of the Naib Soobah's Dewanee, whose powers extend to suits up to Rupees 25,000, and all criminal cases are prepared by the Naib Soobah's Foudaree and submitted for their orders. The latter is not supposed even to pass an opinion on the case submitted. In criminal cases the powers of the Soobah extend to two years' imprisonment and 200 rupees fine and 24 stripes. Komeshdars have powers to hear any suit up to 300 rupees, it being optional to prefer complaints to that amount in his Court or in that of the Naib Soobah.

All plaints besides being on stamped paper according to the schedule must be accompanied by a blank paper with a two anna stamp on which the Court acknowledges its receipt, and this paper must accompany the plaint in all its future stages. It is meant to be a check on the dilatoriness of the Courts, but I fear does not fulfil its object.

There is a limitation as to suits. In the case of movable property the limit is 12 years, of immovable property 30 years is the limit. Interest is allowed at 12 per cent per annum, until the principal sum is doubled then interest ceases, in suits concerning grain three times the original weight is the limit allowed.

The laws are framed in a mild spirit and are suited to the wants of the people. The fault is in their application by the Courts, the procedure of which is very slow, which is due to there being no fixed hours for work and to a want of supervision. The exception is the Court of the Komeshdar, in which procedure is more rapid, and which is therefore popular.

The British settlement of the Neemuch Zillah will expire next year, and the next settlement is expected to be considerably more productive.

5 *Indore*—There are 16 pergunnahs in this Agency regarding which there is nothing particular to report. Much of the revenue of the past year is said to be in arrears.

6 *Jhallawar*—The lease of the four pergunnahs of Awur, Puchpahar, Dug, and Gungrar expired during the past year, and new leases have been granted from July 1874 for seven years at slightly increased rates either to merchants or to zemindars. The farmers have the benefit of any increased cultivation during their lease, but they have no power to increase the rent of land which varies from 10 to 12 rupees per beegah for land bearing two crops, and from Rupees 1-10 to 1-14 for land bearing one crop. The revenue is calculated in Boondce rupees (15 annas British), but is paid in Halee at the rate of 104 Boondce for 100 Halee, as fixed by the founder of the family, Zahm Sing.

It is a rule that if any cultivator absconds without paying his rent, it must be made good by the others. The Courts, if honestly administered, are admirably suited to the wants of the country.

The highest Court for the settlement of all civil and criminal business is a punchayet presided over by the Minister, the powers of

which in criminal cases amount to three years' imprisonment and a fine of 300 rupees: any more serious case is submitted to the Chief with its opinion.

Below the punchayet is a Moonserim of Foujdaree whose power is limited to one year's imprisonment and a fine of 100 rupees with appeal to the punchayet.

Each pergunnah is presided over by a Billadar, who with the Peshkar disposes of small offences, punishment being limited to three months' imprisonment and a fine of 40 rupees. All more serious cases are submitted in the first instance to the Moonserim at Jhalrapatun. Civil suits of the value of 400 rupees are disposed of by a Moonserim: suits exceeding Rupees 400 and up to Rupees 1,000 by the Punchayet, and if of greater amount, are submitted with its opinion to the Chief. Billadars dispose of suits to the value of 50 rupees, and all local claims preferred by the farmers of revenue for rent, seed, &c.

7. *Jowrah*.—In May last His Highness was invested by the Agent to the Governor-General for Central India in public Durbar at Jowrah with the full management of his State. His Highness availed himself of the opportunity to recognize the service rendered during his minority by his Kamdar, Huzrut Noor Khan, and presented him with a jaghir. At His Highness' request Captain Wilson, who had superintended his education, was permitted to remain another year to advise him. The admirable manner in which Captain Wilson performed his duty from the beginning has been recognized by the Government of India. His Highness continues to confide in his tried Minister, and everything is progressing well. I visited Jowrah in January, and on the 28th, at His Highness' request, laid the foundation of a new school-house in memory of his inauguration. A serai at Poonakheri recommended last year has been commenced. Jowrah is a neatly kept city with excellent roads, and boasts of perhaps the handsomest and best constructed bridge in this part of India. It was built by Colonel Borthwick in 1833 of dressed stone at a cost of Rupees 41,600 and consists of seven arches. On one side of the bridge stands the dispensary finished last year, and the school-house is rising on the other.

8. *Piplouda*.—I visited this small Chief who had lately returned from a pleasure trip to Calcutta and other cities highly pleased with the kindness he had everywhere met with.

9. *Sillana*.—This Chief was absent on a pilgrimage when I passed through Sillana. He has since returned and continues to take a personal interest in his affairs.

10. *Rutlam*.—For a detailed account I beg to refer to the report of the Superintendent, Mir Shahamut Ali, Khan Bahadoor, C.S.I. The young Raja has attained the age of 15 years and his character continues full of promise. His mother, to whom he was greatly attached, died in December. I visited Rutlam in February, and on the 2nd examined the school. It has a good staff of teachers, is well attended, and most popular. The building besides being well adapted to its purpose is an ornament to the town.

11. *Seetamow*.—There is nothing to notice regarding this small Chiefship.

12 *Dewas*—There are two pergunnahs of the junior branch and one pergunnah of the senior branch in this Agency regarding which there is nothing particular to record

13 There are 16 Tankadars receiving tankas amounting to Rupees 20,160 annually from Sindia through this Agency, besides other sums direct from Holkar and Dewas, all being guaranteed by the British Government. Some of the tankas are much sub divided, but all the Tankadars value the guarantee very highly, and thus they are an element of strength. Their rights sometimes require to be protected, at other times they are apt to demand more than the guarantee signifies and have to be advised to fulfil their obligations to the States from which they receive their tankas

14 *Military*—The Corps of Central India Horse have furnished the usual 27 outposts with head quarters at Augur and Goona. From 30 to 60 sabres of the 1st Regiment have been employed to assist the authorities in Bundelcund to capture the notorious outlaw, Rundheer Sing, and his band, but they have given the detachments no opportunity. There was, I regret to say, considerable mortality among the horses of these detachments from pulmonary complaints. There have been a few changes among the officers. Lieutenant Colonel Hall returned from furlough and relieved Captain Bannerman of the command of the 2nd Regiment, and two young officers, Lieutenant A. Masters and Lieutenant the Hon'ble J. P. Napier, have joined the force. Captain Neil, four Native Officers and eight non Commissioned Officers returned in October from Bengal where their good service by name has been notified in General Orders. The health of the force has been remarkably good. There have been—

Deaths	7
Discharged	20
Enlisted*	83
Pensioned	41
Horses cast	73
„ died	32
Remounts	151

* Including Sikh Jats Hindoos
Malomedans of North Western Pro-
vinces and Pathans

The latter were procured principally from the fairs of Batesur, Pokur, and Balotra, a few Arabs and Walers. The 1st Regiment was inspected by Brigadier-General R. O. Bright, C.B., at Goona on 25th March, who specially noticed the proficiency shown in leaping and outpost duty. The 2nd Regiment was inspected on 3rd November 1874 by Major-General Montgomery, C.S.I., Commanding the Mhow Division, who expressed himself well pleased with the efficiency shown. It is hoped there will be an improvement in the health of the wing of infantry at Mehidpoor since the huts have been raised and the lines thoroughly drained. The wing of infantry at Augur has been healthy.

15 *Jail*—The daily average of prisoners during the year was 21 14, costing each daily four annas ten pie including the cost of establishment. The prisoners have been healthy, and there have been no deaths.

16. *School*.—A good school has been established since last report through the assistance kindly given by the Agent to the Governor-General for Central India from local funds. A hardworking schoolmaster who takes much interest in his work was engaged, and the result is that the average daily attendance has increased from 47, when it was opened in July, to 70 in March, and the numbers are increasing.

A more spacious building is required, and this will soon, I hope, be commenced from local resources.

17. *Public Works*.—The serai began last year and built from local funds has been finished and is much appreciated, and already pays 16 per cent. on the outlay. New walls to enclose the cemetery have been built. A magazine for the Central India Horse is building; and new buildings for the infantry will shortly be commenced. The above have been undertaken on behalf of the Public Works Department under local superintendence, and the work is economically performed, and the department saved much expense.

18. *Communications*.—The Neemuch State Railway is making good progress, and I have not had a single complaint which shows that the officers superintending the work are performing their duty with tact.

19. *Dispensaries*.—The dispensary at Augur has been regularly attended by the Surgeon of the Central India Horse, Dr. D. F. Keegan, and the blessing of skilful and kind treatment is highly valued. There are also dispensaries at Oojein, Rutlam, and Jowrah in charge of Native Doctors.

20. *Boundary Settlement*.—There is always abundant occupation under this head, and the work has been thoroughly performed by Lieutenant T. Hope, 3rd Assistant Agent to the Governor-General for Central India. He was called away for a time to attend His Highness Maharaja Sindia at Baroda, but up to the end of March had disposed of 14 cases, in which there were only two appeals, and will continue engaged till the rains commence in June.

21. *Studs*.—Six stallions are maintained by Government at a small cost, three at Augur, and three at Goona, which are well employed. One is a T. B. English horse, one a pure Kattiawar, two are Arabs, and two are stud breds. They have covered 193 mares, and a non-commissioned officer is occasionally deputed to test the results.

21. *Survey*.—Survey parties of the Topographical Survey under Captains C. Strahan and Wilmer have been engaged during the season, and I understand that the former has completed his work in the Western Malwa Agency.

22. *Mails*.—An alleged attack on the mail near Burnuggur was reported by the Postal Department, but it is still under investigation, and there is some doubt if it was really an attack and not a quarrel.

23. Two cases of kidnapping girls were enquired into during the past year. In one case a girl was kidnapped and taken to a village in Nursinghur, it is supposed for sale, where she was recovered and restored to her lawful guardians. The offence was proved against the person who kidnapped, but as he and the girl belonged to Indore, and the offence was committed in the same State, the defendant was handed over to that

State with orders to report what punishment was awarded. The alleged purchase having occurred in the jurisdiction of the Political Agent, Bhopal, the person accused of that offence was transferred for disposal to that officer. The second case was dismissed.

The usual returns are appended as below

A — Civil Justice

B — Criminal Justice

C — Criminal Justice, attendance of witnesses

D — Police

E — Jails

F — Revenue

G — Education

H — Public Works from Local Funds

J — Post Office

K — Military

AUGUR,
The 1st April 1875 }

(Sd) C MARTIN, Major,
Offg Poltl Agent, W Malwa,
and Commandant, Central India Horse

No 127

ANNUAL REPORT OF THE ADMINISTRATION OF THE RUTLAM STATE FOR THE YEAR 1874-75

THE Superintendent has the honor to submit the following report of the administration of the Rutlam State during the past year, recording notable occurrences respectively arranged under the heads to which they relate

2 *Population* — No remarkable change under this head. The number of houses that were built more than half kutcha.

3 The number of deaths was 1,163, the average rate of mortality being 11 souls per thousand. Deaths from violence are reported to be 30, namely, 11 by drowning, 2 by burning, and 17 by suicide.

4 Total number of births did not exceed 1,268, viz, 794 boys and 474 girls. The number of marriages during the year was 475 against 278 in the preceding year.

5 The total number of patients admitted and treated in the dispensaries of the town was 14,552 against 10,895 in the previous year, the cost including contingent charges being Rupees 2,874. The number of children vaccinated was 337. The village people are still prejudiced against vaccination. This circumstance will account for the small number of children who were vaccinated. To facilitate the operation for the future, it has been determined to employ the agency of the village schoolmasters, within their respective circles, to vaccinate the children, the masters being previously instructed in vaccination. This course, it is hoped, will prove more successful than the one in force, the teachers living

among the villagers are likely to be looked upon with less suspicion than strangers. For this service they are promised a small increase of pay.

6. Public health was generally good throughout the year. No loss of property by fire. There was only one explosion of a gunpowder factory resulting in the death of an old woman working then in the factory.

7. It is gratifying to notice here that a charity house to supply food daily to the poor, who may visit the town throughout the year, has been opened. The daily average number of souls who receive food is about 75. In the rainy season the wild birds will also receive food from this charity house. To meet the expense of this institution an ample fund is provided by the town Panchayet by allowing a small tax to be levied on certain articles of trade.

8. *Civil Justice*.—The table given on the margin shows that 822

Pending at the close of year 1873-74.	Filed during 1874-75.	Decided.	Pending on 31st March 1875.
367	795	822	336

cases were disposed of during the year against 1,095 in the previous year, being 273 cases less. Six hundred and eight cases were decided in favor of the plaintiffs and three in that of the defendants, 51

cases were struck off, and 161 compromised, and 336 remained pending on 31st March 1875. In 372 cases the parties attended personally and in 460 were represented by Vakeels against 647 in the previous year, which proves that the system of personal representation is getting into favor. The number of writs of executions issued was 713. Of commitments on that account were 102, and attachments of property five. Six hundred and six cases were mutually settled without the aid of the Civil Courts.

The Meer Mohullas decided 115 cases during the year under review.

9. The total value of property litigated for was worth Rupees 86,504. The average cost of conduct was Rupees 8-8, and the average duration of each case was 71 days and 9 hours.

10. The number of appeals to the Superintendent's Court was 48, besides 71 pending at the end of 1873-74. The cases settled were 59, of which 36 were confirmed, 20 revised, and three reversed, and 60 remained pending at the close of the official year ending 31st March 1875.

11. *Criminal Justice*.—The general state of the administration of criminal justice was as per statements marked C. and D. The number of prisoners tried and cases decided was 1,479 against 1,432 in the previous year.

Filed, including the number pending on 1st April 1871.	Convicted.	Imprisoned for five years or under.	Transferred.	Flogged & outlawed.	Fined.	Discharged.	Pending.
1,577	147	11	1	39	394	1,041	92

The table on margin shows the various punishments inflicted and the number discharged as not found guilty. The average duration of each case was three days and thirteen hours.

12 The number of thefts registered during the year was 229, including the balance of previous year, involving property worth Rupees 26,294 and 77 head of cattle. Of these 72 were traced, and property of the value of Rupees 3,459 and 10 head of cattle recovered, and 34 worth Rupees 7 625 with 18 cattle not being proved were dismissed, and 123 worth Rupees 15,210 and 49 cattle remained untraced on the 31st March 1875.

13 *Police*—The police continues to give satisfaction. Some increase in the number of men of the rural police being necessary was made, 42 men were added. The strength of the police has therefore risen to 449 footmen and 73 sowars, the total annual cost being Rupees 54 365.

14 *Jail*—On the 1st of April 1874 the number of prisoners in jail was 74, 79 were admitted during the year, the total number being altogether 153. Of these nine were transferred, two escaped, three died, and 65 were discharged, and 74 remaining in jail on the 31st March 1875.

15 The daily average number of prisoners during the year was 69 15, and the total cost was Rupees 5,818 14 3, being Rupees 534-4-7 less than in the preceding year. The average cost of prisoners was Rupees 83 10-4 against Rupees 79-10 9, being Rupees 3-15-7 more than in the previous year.

16 The prisoners continue to be employed in the State garden and the school of industry, and have given satisfaction by their good conduct.

17 *Revenue*—The rain-fall in the year 1874 was unusually excessive, being much more than in any one season within 11 years. The mucca and jawar crops were in consequence much injured. It was, however, expected that the excess of moisture might help the winter crops as well as opium in productiveness, but an adverse wind, which blew for four and five days when these crops were approaching ripeness, entirely frustrated this hope also. The wheat and opium crops were both much damaged, but this failure has not much affected the market prices of the food grains, the produce of the "rabee" in the neighbouring hilly tracts from which Western Malwa greatly draws its food supply being very favorable.

This circumstance, however, has been more favorable to the consumers only than to the agriculturists, who from the failure of both crops have been much straitened in their means, even to pay the revenue, the collection of which has been uncommonly tardy.

18 The outturn of opium is estimated one-fourth less than usual. In the Model Farm the pods of opium under the influence of the wind became soft and dry, and hardly capable of bearing more than one instead of three or four. Almost every poppy field being then nearly incision suffered from this wind, and caused much loss to cultivators in consequence. There is a strong impression that the market price of opium may be higher than last year, and, therefore, favorable to the opium dealers.

19. The total rain-fall for the season was 52 inches 98 cents as

MONTHS.	1873.			1874.		
	No. of days.	Inches.	Cents.	No. of days.	Inches.	Cents.
January ...	1	1	5	...	...	...
February...	4	6	3	...	...	...
May ...	1	...	15	...	...	...
June ...	3	...	05	12	5	71
July ...	18	12	47	16	23	81
August ...	20	10	29	23	12	63
September	12	11	13	8	10	83
Total ..	59	39	0	59	52	98

noted in margin in 59 days against 39 inches 6 cents in the same number of days in the preceding year. The largest quantity fell in July, and this month has often been more rainy than any other, August and September being generally on a par.

20. It has been remarked that the failure in the crops of Western Malwa has not in any way affected the market prices, though the out-turn was unusually small. For instance, in the State Model Farm a field, which produced nine maunds wheat per beegah, has this year hardly yielded more than $2\frac{1}{2}$ maunds, and of very bad quality, being much thinner in bulk than last year. Notwithstanding this unfavorable difference there has been no marked difference in the local prices of the food

	1873.			1874.		
	Per 6 Mds. S. S. Rs.			Per 6 Mds. S. S. Rs.		
	<i>Rs.</i>	<i>a.</i>	<i>p.</i>	<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Wheat ...	21	4	0	20	0	0
Mucca ...	14	8	0	15	8	0
Jawar ...	15	4	0	16	8	0
Gram ...	17	12	0	13	4	0
Opium per dhuree.	54	0	0	57	0	0

grains except of gram, which shows a falling off in price by nearly one-fourth as per table on margin. The tendency of the market price of opium is upward. The last year's stock in hand is likely to yield a larger profit than last year.

21. *Trade.*—No notable change in the state of trade is remarkable. Benares sugar continues in favor, its import during the year being 7,415

maunds against 5,720 maunds of Mauritius. The former sells cheaper by nearly two rupees per maund. The cotton market continues nearly as dull as last year. There was no more exportation than 1,819 bales against 1,600 in the preceding year.

22. *Education.*—The annual educational reports of the Head-master, Mr. Middleton, of the English Department, and of Pundit Amernath, the Inspector of the Vernacular Department, copies of which are appended, fully show the progress made in education during the year under review. The result is very satisfactory and creditable to the continued efforts made by the educational agency in this direction. The Central College has been in existence since 1865, and the Hulka-bundee Schools from the year 1869. A comparison of the number of

Years.	No. of pupils in College.	No. of pupils in village school.	No. of pupils in private school.	Total.
1869 ...	190	228	335	753
1870 ...	208	259	487	954
1871 ...	173	217	529	919
1872 ...	251	372	503	1,126
1873 ...	418	392	526	1,336
1874 ...	388	544	525	1,457

pupils in each department for the past six years shows the continuous rise in number which is almost doubled, and evinces a growing spirit among the people for knowledge as per annexed table on margin. There is one Central College, 21 village schools, two having been started during the year

under review, as well as 14 aided private schools giving instructions to
 is a falling off of 30 boys in
 a new system of instruction
 The number of pupils whose
 department is 1,399, of whom
 1,289 are boys and 105 girls, 56 being admitted last year. On the whole
 the total number of pupils who received education, compared with that
 of past, shows an increase of 121 pupils than last year. The total
 annual cost is Rupees 10,929 including contingent charges. This sum
 is applied for diffusing knowledge over an area of nearly 800 square
 miles containing about one lakh of population, i.e., at the rate of about
 11½ pupils per thousand. In the Hullabundee and private schools
 teaching is confined to elementary kind, reading, writing, and ciphering.
 The daily average attendance excluding private schools has been 680 30,
 and the average yearly cost per pupil Rupees 7 8, and of the vernacular
 department alone, not being more than Rupees 5 12 6 per head.

23 It is also satisfactory to add that a Reading room as well as a
 Library is opened during the year for the benefit of the reading public.

24 *Public Works*—The wall round the garden being 3,720 feet
 in length, varying in height from 20 to 5 feet, has been finished with
 other buildings, as well as a small tank, which is being dug and con-
 structed outside the garden for the convenience of the public. Another
 building, the roof of which will serve as a tank for holding a sufficient
 supply of water to make garden fountain jets play, is also nearly
 finished. The completion of the Audience Hall continues delayed owing
 to the non arrival of two of the four gunders required, but their arrival
 and finishing the building may not now be long put off. In the town
 10 new wells have been dug and built for drinking purposes for the use
 of the public.

25 *Roads and Bridges*—Two bridges and six culverts were built
 during the year. The bathing ghât intended for the use of women,
 which was begun last year, is also nearly finished. Formerly there was
 no separate bathing ghât, men and women bathing together in one
 place. The new ghât will be a great convenience to the women inas-
 much as they may be secured from exposure. The cost of these works
 has been Rupees 10,205. At the same time 181,875 cubic feet of road
 was metalled and a new one for dry weather being 225,900 was made
 costing Rupees 7,781, or altogether S S Rupees 17,986.

26 *Sanitary Reforms*—Nothing worthy of notice under this
 head. The sanitary condition continues to give satisfaction. The
 public health has always continuously been good.

27 *Finance*—The financial condition of the State continues to be
 satisfactory, though it has had to meet some very extraordinary and unfore-
 seen charges. It has had to meet the expenses of two deaths and one
 marriage, which will be presently noticed. Altogether they have
 amounted to Rupees 1,48,000 in round figure. The deaths, though they
 have this year subjected the State to extra charges, have also caused a
 lyse of injuries worth about Rupees 30,000 yearly.

28. The State is now free from the payment of debts. The

			Rs.	a.	p.
Land tax ...	...	...	3,51,436	0	0
Sewai jamah ...	...	...	39,441	0	0
Customs ...	...	...	1,02,679	0	0
Fines and fees ...	...	...	32,966	0	0
Road and light taxes ...	...	...	54,110	0	0
Miscellaneous ...	...	...	6,298	0	0
Total			5,86,930	0	0
Deduct charges			5,01,758	0	0
Surplus			82,172	0	0

income from all sources will be as marginally noted, leaving a net surplus after meeting all the ordinary charges of Rupees 82,172 yearly. This favorable prospect has enabled the State to promote security to add to the strength of the rural police and also to add a band to the establishment. These additions will cost yearly Rupees

7,008. The State will also have to make a provision for the dependants of the deceased ladies, and to provide the increased private expenses of His Highness the Raja, which were before partly borne by his mother. They will not exceed altogether Rupees 11,400 yearly. Both these items amounting to Rupees 18,408 are included in ordinary charges, and the surplus is therefore reduced in proportion.

29. It is in contemplation to devote the surplus in local improvements and in promoting the agency of mechanic arts by introducing and adopting the European machinery.

30. *Agriculture.*—Cotton cultivation continues in disfavor. The Patna poppy seed is much being appreciated as time progresses. The result of last year's sowing shows that the yield of it in quantity as well as quality is better than that of the country seed. The experiment of sowing it was tried in two or three villages separately situated, as well as in the State Model Farm. The cultivation in the farm was a failure, and being seriously affected by an adverse wind failed to give satisfaction, but was very successful in a neighbouring village, which luckily escaped from being injured by the wind. The outturn of a beegah of Patna seed was eight seers while in an adjoining field in the same village sown with country seed, the produce was not more than five seers per beegah. In quality and flavour also the Patna seed opium was far superior to the country opium, and fetched Rupees two per dharee higher price. It also can bear the heat and cold without suffering any loss, and the poppy can be incised and juice extracted immediately after the last watering without waiting as in the case of country poppy, until the soil dries up which takes three or four days. It is, likewise, beyond feeling the effect of moisture. The color of the first year's produce was dark. As it is acclimatized, it is getting changed from dark to copper color, which is liked by opium-eaters better. This is also an advantage in favor of Patna. The only drawback against it is that the pod is smaller in size and its skin harder, which takes longer time in incising and extracting the juice. With this exception the produce of the Patna seed is much superior, and highly appreciated both by cultivators and dealers, and there is, therefore, every hope that its cultivation will spread throughout the district as its advantages are known and appreciated.

31. The sugar-mill or cane-crusher and a water-lift, which were imported last year from Bombay, have in working given full satisfaction, especially the former. The Model Farm cultivation could hardly supply

food for the season. The neighbouring villages brought in their cranes, and had them crushed to their great satisfaction at one half the cost incurred at the country mill. The result has been very favourable and

32 A portable steam engine 10 horse power to work a saw mill and grinding mill has also been imported. It will be set up after the rains, and the result will be embodied in next year's report.

33 A drawback in adopting European machinery, which serves as a great hinderance to its importation to this country, is that when any part of it is out of order or is broken there is no one here to repair or to replace it. It therefore becomes quite useless whenever it meets with an accident. This circumstance is very discouraging to its adoption, otherwise as long as it is in good order it serves as a very useful and convenient agency.

34 *Political* —The year has been uncommonly unfortunate to the young Raja in the sad bereavements his family has lately suffered in the deaths of his mother and grandmother, who died within an interval of three months.

It is gratifying to observe that the Regency continues to co operate harmoniously, mutual cordiality and good understanding being undisturbed.

RUTLAM, }
The 3rd July 1875 }

(Sd) MIR SHAHAMUT ALI,
Superintendent of Rutlam

Inspector's Annual Report of the Vernacular Department, Rutlam Central College, for the year 1874-75, including Hullabundee Schools

[TRANSLATION]

Central College —The year under review by the grace of God has one of unprecedented success. Our attempts everywhere have been crowned with happy results, and progress has kept pace with time. Additions and alterations too have been made, the most remarkable of which is the introduction of a revised curriculum of Hindoos into all the three departments of the college. The old method of tuition that involved an enormous waste of time and energy, and that could not until recently be safely interfered with, has at last been given up and replaced by a system better calculated to afford the pupil at once the advantage of progressing by easy gradations and benefiting himself with the light of modern science. This change, as a matter of course, caused a temporary fall in the roll, inasmuch as it displeased a few silly parents who withdrew their children from school. But in spite of the dismissals and the disturbance our popularity and honesty of purpose have brought about a steady increase of 20 per cent on the roll. Attendance too has increased from 50 to 75 per cent, which shows better discipline. The results of the annual examination have been highly satisfactory as the returns testify. Twelve boys have obtained scholarship, and prizes were awarded to seventy three for proficiency in the different branches of learning, viz.,

Language, Arithmetic, History and Geography, Euclid and Algebra, newly introduced into the course of Hindees, were taught with success, that an able member of the Committee took particular notice of the creditable manner in which the boys acquitted themselves at the examination.

Hulkabundee Schools.—The Hulkabundee schools have been doing their work very successfully so far as a spread of primary education is concerned. These institutions promise to bear very good fruit in time. The last year has added two more to the already considerable number of Hulkabundee schools—one a Girls' School in the town that was spoken of in my last report; and that in the Borah Bakhul for the instruction of Borah children in subjects both sacred and profane. The former has already 35 girls of respectable families on the roll, seventeen of whom appeared before the Political Agent at the distribution of prizes. The Borah Bakhul School too has had large admission, both of male and female pupils, and is expected to be one of goodly size before long.

It is among the Jaghirdars that educational institutions thrive the least. The school at Sewghur has ceased to exist. With the solitary exception of the small school started at Surwan, none has been established among the Jaghirdars in the last year. The Durbar, it is hoped, will take serious notice of such indifference on the part of the well-to-do Jaghirdars that have rendered the greater part of the Raj a stronghold of ignorance.

The strength at present of all these Hulkabundee schools taken together is 439 boys and 105 girls, and their annual expenditure, including contingent charges, amounts to Rupees 2,036-7-9, giving a yearly cost of 5-12-6 per head.

Private schools aided by the State are 14, in which 520 boys and 5 girls receive instruction. The total number of pupils whose education is entrusted to this department is at present 1,399, of whom 1,289 are boys and 110 girls. This total exceeds the one given in the last year's report by 80 boys and 58 girls.

(Sd.) AMARNATH,
Inspector of Schools.

Headmaster's Report of the English Department of the Rutlam Central College for the year 1874-75.

THERE has been less fluctuation in the number of boys which to me has been very satisfactory. I commenced the year with 49 boys, and the number up to end of September steadily increased to 61, after which it commenced to decline; however, on the whole, the average attendance has been 43.58.

I have four Assistants now instead of three. The fourth, Mahomed Abdool Hameed, is both a writing master and mathematical teacher. Since his appointment my department has gained much knowledge in Arithmetic and Euclid.

Though I am not able to speak of any extraordinary success achieved by the institution during the year under review, yet I am able to say I and my Assistants have worked perseveringly, and accept with thanks the measure of success that has been granted to us. I have not had so many difficulties to contend with as in previous years, which is an

evident proof that the inhabitants of Rutlum have commenced to appreciate the reasonableness of English education

The English Department consists of six regular classes and one of new beginners. The first class is formed into a preparatory class, which I hope, if no hindrances occur, will be fit for the Entrance Examination following year, and in its place the second will become the preparatory class.

The three young men who were last year in the adult class are now engaged as teachers in the very school where they were taught, and as they are of learning the art of teaching they have no time during school hours, at home, and I am glad to certify that they have gained much knowledge of English through diligence and perseverance.

I thankfully acknowledge the valuable aid the Superintendent has cheerfully given from time to time with his salutary advice, not only for the benefit of the English Department, but for the vernacular as well.

The examination of the English Department was conducted by Baboo Sarnath Banerjee and Mahomed Abdool Hameed. The 1st, 2nd, and 3rd classes were allotted to the former, and the 4th, 5th, 6th, and that of new beginners to the latter. Baboo Sarnath's remarks on the class examined by him are—

1st Class—Tolerably good

2nd Class—Not very satisfactory

3rd Class—These boys have done very well indeed

Mahomed Abdool Hameed's remarks—

1th Class—This passed in all the subjects fairly, but the English pronunciation of the boys is awfully bad

5th Class—The boys have been taught well in every respect, but the pronunciation is bad

6th Class—These boys gave satisfaction in every subject especially in geography, by which it seems they have been well taught. Pronunciation improving.

The Political Agent on his last visit to Rutlum with the Superintendent's request kindly distributed the prizes for last examination. The Chief of Rutlum also helped in the distribution of the prizes before whom some of the English and vernacular classes were examined by the Political Agent and Captain Wilson. Almost all the Thakoor and respectable Native Gentlemen of Rutlum were present and were well pleased with what they saw and heard. The Political Agent has left the following remarks in the visitor's book—

"It has given me great pleasure to visit the school for the third time and to see it so much appreciated. I have examined some of the classes, and find that some of the scholars have attained a creditable degree of knowledge. The whole tone of the school reflects credit on the staff."

(Sd) C MARTIN, Major,

Offg. Poltl Agent, Western Malwa

The 2nd Feb 1875

APPENDIX F.

ANNUAL REPORT OF THE STATES UNDER THE BHOPAWUR AGENCY FOR 1874-75.

Dated Sirdarpoor, 1st May 1875.

FROM—LIEUT.-COL. W. KINCAID, Political Agent, Bhopawur,
TO—MAJOR-GENL. SIR H. DALY, Agent, Governor-General, Indore.

GENERAL OBSERVATIONS.

I HAVE the honor to report as follows regarding the condition of the

1. Dhar.	9. Amjhera.	} Sindia, Holkar.	Native States under this Agency enumerated in the margin.
2. Jabooah.	Bang.		
3. Ali Rajpoor.	Bakaneer.		<i>Political</i> .—The chief political event of the year has been the death of the Rana of Jobut and the succession of his son, a minor.
4. Jobut.	Munawur.		
5. Mutwarh.	Dektan.		
6. Kattiwarra.	Sagore.		
7. Ruttonmal.	10. Pitlawud.		
8. Dhui and Dhurmrai.	Chiculda.		

2. *Health and Harvest*.—The health of the district has been good and the crops excellent. In Dhar there has been the best wheat harvest reaped since 1870-71. High winds injured the opium crop in some districts to the extent of two annas in the rupee.

3. *Frontier cattle-lifting*.—There is a pause in the cattle-lifting on the Jabooah and Kooshulghur frontier. Though I missed Mr. Framjee Bikajee, the Political Assistant, and was not able to hold the International Court, my visit has done good. I obtained trustworthy information, and when exchanging visits I earnestly impressed upon the Rao Sahib of Kooshulghur the necessity of honest co-operation.

4. The Kooshulghur Bheels are said to number ten thousand living in 385 villages; to keep them in order and collect rent there are three badly paid and probably corrupt Thanadars, who have high authority; one-sixth of the revenue is levied from fines. There are (8) eight Bheel

1. Dhulla wullud Oonkar	5. Gulia.	Pals headed by leaders <i>vide</i> margin, ready for anything: these men are heavily fined when a robbery is made
Rawut.	6. Dulla.	
2. Boonder Rawut.	7. Babria.	
3. Pirtha Rawut.	8. Chutria Fullia and Roopa.	
4. Mokha Rawut.		

public and pressed against them, so much so that practically the State participates in the plunder.

I attach a hand sketch showing how exposed the Jabooah frontier is

Vide Appendix No. 2.

to the excursions of the Banswarra and Kooshulghur Pals; it will be observed that the former have to pass through the latter districts to raid in Jabooah: this must be done by the connivance of the authorities.

The way the Pal villages lie along the Banswarra and Kooshulghur boundary is suggestive of easy escape from pursuit

5 The value of the robberies committed in Jabooah during the past year by Kooshulghur and Banswarra plunderers is reported Rupees 13,500, that of robberies by Jabooah in Kooshulghur Rupees 60

6 Twenty years ago the Jhalode (Punch Mahals) and Jabooah Bheels were as bad as their neighbours, but they have settled down to agricultural pursuits, how long this will last I can't say every year they become more dissatisfied and are plundered and harassed, if coercive measures are not taken across the border, nothing we can do will prevent reprisals and consequent relapse and demoralization

7 The road from the Jabooah frontier to the capital of Kooshulghur passes through the finest forest I have seen above the Vindhya, it has been preserved for generations, it is a rare sight and a beautiful ride, but by no means a safe one, on our return a numerous party overtook us and begged to be allowed to join, indeed they had waited a day or two for our escort, the day before we left a small party passed our camp at noon to return at nightfall robbed of everything

I have dwelt at length on this subject, it is an urgent one, last year, as you are aware, we had to detach a strong party of the Malwa Bheel Corps to defend our frontier, and we are not prepared to allow this to be an annual drain on our resources

8 *Bukhtghur reform*—The administration of Bukhtghur was not very satisfactory last rains In the cold weather therefore I halted a month there and thoroughly revised every department The Naib Kamdar was advised to resign, and he was replaced by a much better man affairs now work smoothly and are much improved

The investigation throws light on the cause of the poverty of the ryots, for many years their villages have been worked by lessees who gradually raised the rent and shortened the beegah There is a large opium cultivation paying high assessments, a falling market, and the effects of the oppression of the lessees tend to lower the style of farming The result is low average production, $7\frac{1}{2}$ seers of juice per beegah, or 5 minimum to 10 maximum

I propose to make a new settlement on the basis of the Dera survey measured during the superintendence, and this alone will do much to restore contentment, and it may not be necessary to have recourse to any general lowering of rent a principle strongly opposed by the ruling family The villages have all been brought under Khalsa management

9 *Forest Conservancy*—The Deputy Bheel Agent in last year's report truly remarks on the rapid disappearance of the jungles on the Vindhyan slopes The demand for building timber has much increased of late, and there is a yearly rise of price owing probably to extension of our railways I feel however the loss of forest land tends to preservation The ryots are leaning towards conservancy, they like to see the forests protected, and last year we found difficulty in procuring teak saplings for our repairs

I have issued orders for the stricter conservancy of Mutwarh jungles, the revenue has suffered, but the future gain will compensate

10. *Witchcraft*.—As already reported, the Thakoor of Kattiwara, a wild border Chief, has got into trouble for sanctioning by his presence the practice of a cruel ordeal upon a suspected witch, liquid cowdung was heated in a vessel in which was thrown a silver bangle, the woman was told to take out the bracelet, she told me that sooner than live the life of a suspected witch she would have gone through a more painful ordeal, believing the test she plunged her hands into the boiling mess and of course burnt them severely. The actors will be punished, but in these cases the Burwa or witch-finder is at the bottom of the mischief. A Bheel's child was taken ill, the father went over the border and consulted a notorious witch-finder, who at once named the present victim. She was brought to the Thakoor and tested in the way described, if the hands are not burnt, the person is innocent. We are trying to catch the Burwa, but have not yet succeeded.

11. On the borders of Jabooah and Pitlawud (Holkar) a young widow nearly lost her life a few months ago by another kind of ordeal for seven days she was kept under a tree in a sacred grove, being tied by the heels every now and then and beaten; on these occasions the man is placed in the centre. The Bheels formed themselves in a circle and chanting with beat of drum and with wild gestures; they step forward and solemnly round adjuring her to cast the devil out of the sick person. She was young and strong and survived punishment till released by the police. I am seeking for the Burwa; he made off directly before the arrest of some of the actors who will be punished.

During the enquiry it appeared that not only has the sick man but also one of the torturers. The consequence is that the poor man is now looked upon with great dread. I have made arrangements for her future protection.

12. *Professional plunderers*.—The Moghias, a tribe of professional plunderers, give much trouble to the Dhar State and districts. Previous to the mutinies, Captain Hutchins removed them out of the Bheel States where they had begun to flourish; on they were expelled from Meywar; and since this latter year the Durbar, at my suggestion, disarmed them and ordered three months to settle down or leave his districts. When I reached me I was at Bukhtghur making local enquiries and advised a trial of similar measures to those about to be taken at Bukhtghur, namely, the appointment of an influential man to a grant of land who should be held responsible that those who do not settle down to agriculture, they receiving a certain term and tucavee advances on his security.

I am confident it is better to pursue this plan than to plunder neighbouring districts; the good results will be slow, but if it is carefully and persistently carried out, the land will be reclaimed, and it will be only a matter of time to follow.

13 The Raja of Jabooah has not reformed his expenditure, he has succeeded in spending Rupees 16,000 in excess of his income

The larger portion of the treasure is lavished on a set of greedy grasping Meywar Thakoors, adventurers, who form a band of flatterers round him.

When the State gets involved pressure will fall on the Bheel population and the results will be deplorable. During my last visit to Jabooah I again spoke most seriously to the Raja, he promised to be guided by his Minister's advice and signed an order in my presence strictly curtailing his personal expenditure and restricting the emoluments of his Thakoor to a monthly allowance. The latter moreover bound themselves to accept these conditions or forfeit their position in the State.

If the duty Th outlay for her diff moderate

14 There is a curious old custom in parts of Jabooah with regard to land measurement. In the pergunnahs of Tandia and Pitlawud the beegah standard is twenty times the square of the breadth of the gateway of Ramghur. They say that long ago when the Rajas of Jabooah lived in Ramghur, the oppression of middlemen caused a strike. The ryots besieged the fort and demanded a new land settlement, to appease them the Raja promised the square of the width of his gateway should be the future biswah, 20 of which make a beegah, the gateway is $7\frac{1}{2}$ cubits, the Ramghur beegah, as it is called, is therefore $2\frac{1}{4}$ times the area of any other

The gateway has been well preserved, it stands amid heaps of rubbish of the fallen fort

15 Three years ago there was an exchange of certain villages of Jabooah and Indore, those made over to Indore are to be re-measured. The order has, I fear, caused discontent, and if the Indore officials do not go cautiously to work, the Jabooah Minister will gain a good many immigrants.

16 *Roads*—The Superintendent of the Malwa and Guzerat Road reports an engagement entered into between the carriers on this road and Guzerat traders, whereby the former promise to convey tobacco and salt at a cheaper rate by road than it will cost the latter via Bombay when the new State Railways are opened to Malwa.

These carriers are a rotational force, and will do their best to break their monopoly of a thing.

The Railway section at Chhatta Billa and Dhar which is being constructed and is expected to be opened for traffic after the completion of the work.

well the new International Police Commission was created by the United Nations.

18. The total of gross costs incurred during the past year

CHAPTER II.

CONDITION OF NATIVE STATES.

19. *Dhar*.—The administration of this State has been fairly satisfactory.

Roads.—The road between Ghatta Billode and Dhar, which will be a feeder to the Holkar State Railway, will be finished during the rains. The Chumbul bridge will be completed this year. The Raja has given a large contribution to these useful works.

Schools.—The Durlar reports that on 31st March there were—

In one English School	...	...	50	pupils.
Five Mahratta Schools	...	...	317	"
Three Oordoo Schools	...	...	72	"
Eight Hindee Schools	...	...	129	"
One Sanscrit School	...	...	16	"
In the Girls' School	...	...	22	"

A Sanscrit class has been opened this year.

Dispensaries.—There are two dispensaries in Dhar, both of great benefit to the people.

I have been informed that three more have been opened, one at Budnawur, Dhurmpooree, and Cooksee. I have asked for returns and have strongly advised the Raja to have them put under European supervision, but he holds back; I hope he will eventually see the benefit of the measure.

Finances.—The revenue from all sources is reported as six lakhs eighty thousand, and expenditure including contribution to Dhar road six lakhs and thirty-eight thousand, leaving a net saving of forty-two thousand in the year: this added to last year's balance completes eight lakhs fifteen thousand cash balance, of which five lakhs ninety-six thousand four hundred is invested in Government Paper. The remainder is cash in State and Mahal treasuries.

20. *Bukhtghur*.—This small State is under our supervision, the young Mundloee is a scholar in the Residency School at Indore.

The receipts and expenditure have been as follows:—

		<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Receipts including cash balance	...	65,954	12	0
Disbursements	...	44,947	4	1
Excess of income over expenditure...		21,007	7	11

At the close of the year the State debts amounted to Rupees 12,630-9-6, Rupees 5,088 having been paid off during the year.

I have nothing to add to the remarks already noted in Chapter I. with regard to the management of the State except to repeat what I wrote last year, that the services of an experienced Kamdar would be of great benefit.

GUARANTEED THAKOORS

21 I noted last year that the Thakoor of Kachee Baroda was very much in debt, and that it was feared he could not long avert a crisis in his affairs, he came to me some few months ago requesting my aid and mediation. After a consultation with his creditors the Dhar Durbar was addressed on the subject if it will co operate. We may be able to help the Thakoor out of his difficulties. The creditors are not unwilling to compromise.

JABOOAH

22 The administration is good. The Minister, Jowalla Pershad, has declared he will never remain at the head of affairs to see his labor for 20 years thrown away. From the day this good man took charge of the State he has never ceased to justify the confidence placed in him. His administration has been a pattern to the surrounding Bheel States, I hope the Raja will remember what he owes to him and continue to be guided by him.

Dispensary—Paim Sing, the Native Doctor, is doing a noble work among the Bheels, his good name is heard of at the very confines of the State, and I have known of the sick travelling 60 miles for his aid. He has done more than any person in this Agency to popularize English survey and English medicines among these wild tribes.

Education—When I was at Jabooah, the Minister showed me a fine house he had purchased for the use of the school.

There are in—

Jabooah	53 pupils
Ranapoor	25 "
Tandla	34 "
Rambapoor	14 "

The income of the year is reported as—

	<i>Rs</i>
Receipts from all sources	1,26,336
Expenditure	1,42,580
Excess	16,244

ALI RAJPOOR

23 The Raja and his Minister have carried on the administration well and amicably.

With the cash balance of last year the income amounted to Rupees 1,28,781-15 8, the expenditure has been about Rupees 1,04,970-3 2.

The administration of the Civil and Criminal Courts has been good.

Education—The schools are well attended, there were 181 pupils in the several classes during the year.

Dispensaries—The Native Doctor is reported to have carried on his duties well.

MUTWARI

24 The Chief is a minor and attends.

There has been a falling off in revenue owing to the stricter conservancy of the forest tracts.

The financial state is as follows :—

			Rs.
Balance on 31st March 1874	...	...	4,316
Receipts	...	...	3,767
			<hr/>
	Total	...	8,083
Ordinary expenditure	...	...	3,275
Extraordinary expenditure, liquidation of debts	...	...	500
			<hr/>
			3,775
			<hr/>
	Balance	...	4,308

of which Rupees 1,500 is invested in Government Scrip.

25. *Jobut*.—The Rana died on 31st July 1874 of fever, and his son, a boy of eight years of age, has succeeded him; he is yet too young to go to school, but next year I hope he will attend the Indore Residency School.

The Kamdar appointed in 1873 carries on the administration under the supervision of this Office.

The financial position is as below :—

			Rs.
Balance on 31st March 1874	...	...	301
Receipts during the year	...	...	17,105
			<hr/>
	Total	...	17,406
Ordinary expenditure	...	...	13,133
Extraordinary, liquidation of debts and funeral obsequies of late Rana	...	...	4,228
			<hr/>
			17,361
			<hr/>
	Balance	...	45

26. *Ruttonmal and Kattiwarra*.—The Chief of Kattiwarra has been fined Rupees 500 for not exerting himself to prevent the practice of ordeal for witchcraft as detailed in another place, and the perpetrators will be punished.

Ruttonmal has been fairly managed.

27. *Amjhera (Gwalior)*.—I have had much trouble during the past year on account of the conduct of the Soobah of Amjhera: he has latterly neglected to attend to my requisitions, and complaints are bad against his administration. I have been obliged to forward more than one case for your consideration where the supineness of this officer endangered the public peace.

Last month the Sir Soobah of Oojein recalled the Soobah replacing him temporarily by another officer. I understand there are many complaints against the late Soobah for corrupt practices, and that he is not

likely to return. If this be the truth, I trust the Durbar will send a good man. Maladministration among the Bheel districts of Amjhera means a great deal more than elsewhere. The results of Bheel misgovernment are disastrous, for the surrounding States are contaminated. Oppression exercised on one class affects the whole, and life and property at once become insecure.

28 The districts of *Dektan, Sagore, Bang, Bakaneer, and Munawur*, are nominally under the Soobah's orders, during the past year the latter's authority has been *hindering them from the just complaints of* *the* *upt Governor the Kamazdars* *manage* of some of them.

29 *Chickulda (Holkar)*—This pergunnah is situated on the *border of the Holkar territory* *the villages alternate with those of Dhar,* *use of confusion and the origin of* *three years I have been urging the* *Indore Durbar to negotiate exchanges with Dhar in the manner that has* *been accomplished with Jaboorh in the Tandla Pitlawud case.* The Maharaja would save both himself and his ryots much annoyance if he would agree to this proposal. The Dhar Durbar desires the scheme carried out.

30 *Tandla Pitlawud*—Although the Maharaja of Indore has not yet formally confirmed the exchanges with Jaboorh recommended by the Commission, they have been practically carried out. The Holkar flag no longer flies at Tandla, nor that of Jaboorh at Pitlawud. I do not understand why the Maharaja delays formal ratification.

GUARANTEED BHOOMIAHS

31 The Bhoomiah of Neembhera is at the Indore School, his estate is under my management.

	Rs	a	p
The income with last year's balance was	14,688	15	1
The expenditure	10,071	0	5
Leaving a balance	4,612	14	8
Towards payment of debt	3,471	13	6
The debts are now Rupees	3,028		

The Bhoomiah of Kalee Bowlee, a boy of 11, will, I hope, join the Indore School shortly. The estate is being very well managed, indeed, by his uncle.

The remaining Bhoomiahs have done well.

CHAPTER III

JUDICIAL

32 *Civil Suits*—None

Nature of offence	No of cases	Persons implicated
Murder and attempts	6	8
Theft of cattle and ordinary	4	8
Miscellaneous	3	4
Total	13	17

33 *Criminal Justice*—The statement in the margin shows the number and nature of cases adjudicated by the O.S. during the year 1853-54.

The average duration of each case was six days, and none were pending at the close of the year.

In the Appendix will be found the usual tabular statement under this head.

Punishment by whipping has not been inflicted.

There was one appeal which was dismissed.

POLICE.

34. The only body of police under this Agency is the Nimar International or Chicklee Police. The Jemadar and his Carcoon were tried under Sections 109-161 of the Indian Penal Code for bribery, and being found guilty were sentenced to one year's rigorous imprisonment and fined Rupees 400 each, or in default six months' further imprisonment.

A steady non-commissioned officer from the Bheel regiment has been appointed to the vacant post, receiving his discharge.

The following table shows the strength and cost of the police :—

				Strength.	Cost.
					<i>Rs.</i>
Horse	...	...	...	0	0
Foot	...	...	...	14	1,308

35. The following table gives an abstract of the statistics of the Sirdarpoor Jail for the past year, and a detailed statement will be found in the Appendix. Health and conduct good :—

Name of Jail	...	...	...	Sirdarpoor.
Prisoners remaining at close of 1873-74	...	...	...	4
Admitted during 1874-75	...	...	...	18
				<hr/>
Total	...	...	...	22
				<hr/>
Discharged or transferred	...	...	...	11
Escaped	...	...	...	0
Died or executed	...	...	...	0
				<hr/>
Total	...	...	...	11
				<hr/>
Remaining at close of 1874-75	...	...	...	11
				<hr/>
Jail charges of all kinds :—				<i>Rs.</i>
Rations and contingencies	...	...	...	363
Jail guards establishment	...	...	...	84
				<hr/>
Total	...	...	...	447
				<hr/>
Annual average cost of each prisoner	...	...	...	36.04
Daily average number of prisoners	...	...	...	12.06
				<hr/>

CHAPTER IV

LOCAL FUNDS

36 The funds under this Agency are—

I—The Agency Fund

II—The Chicklee Police

III—The Ah Rajpoor Road dues (receipts divided among Chiefs)

The following table shows the receipts and disbursements of these funds for 1874 75 —

NAME OF FUNDS	RECEIPTS.			DISBURSEMENTS								Total.	Balance on 31st March 1875
	Balance on 1st April 1874.	Total receipts during the year	Grand total receipts	Collection and management	Public Works	Local improvements	Police Judicial	Education.	Hospitals and Dispensaries	Grants to shahere of road dues	Miscellaneous.		
I—Agency Fund	Rs. 3 512	Rs. 48 5	Rs. 8 337	Rs. 1 194	Rs. 200	Rs. 373	Rs. 1,303				Rs. 1 977	Rs. 3,811	Rs. 4 893
II—Chicklee	2 302	1,896	4,093	552							178	* 639	* 660
III—Ah Rajpoor Road	4,149	11 744	15 69	2 535						9 639	233	1* 407	3 433
TOTAL	9 86	19 465	23,3 7	4,231	200	3.3	1 308			9 639	2 338	19 059	10 239

CHAPTER V

EDUCATION

37 The School of the Malwa Bheel Corps is the only educational establishment directly under the Bheel Agent, many of the men and children attend, some of the Chiefs from whose districts the sepoys come and to which they return on discharge, have promised a small subsidy to permit of extended usefulness

The following table shows in an abstract form the income, expenditure, and daily average number of pupils for 1874 75 —

Name of School

Sirdarpoor

Daily average of pupils

English	0
Oordoo	8
Hindee	72

Expenditure during the year

Salaries	Rs 300
Contingent charges	" 0
Total, Rs	300

Sources and amount of income.

Grant-in-aid from Government	Rs. 300
Local Funds 	„ 0
	<hr/>
Total,	Rs. 300
	<hr/>

CHAPTER VI.

PUBLIC WORKS.

38. *Military Works. Rifle Range.*—Labor found by regiment, paid by grant from Government, will be completed before the rains.

39. *Civil Works. Communications.*—On the Mhow and Neemuch Road, of which 50 miles fall within this Agency, the principal work done is reported as follows:—

I.—*Mhow and Neemuch Road.*—The travelling coat has been put on from 5th to 15th and 19th mile; metal collected at 20th and 21st mile and on to 30th mile. The road is in good order.

II.—*Bridging.*—The Maknee bridge of 3×25 has been finished. The Chumbul bridge is in fair progress; it is an iron girder bridge of $14 \times 41\frac{1}{2}$ feet, it will be finished at about the end of the rains.

III.—This year the fair weather road has been abandoned.

IV.—*Annual Repairs* have been done to Akolia, Sadulpoor, Kanoon and Pitgarah bungalows.

I.—*On the Dhar Feeder road.*—The earth work has been finished and a fair weather road opened by making ramps at the nullahs.

II.—*Bridging.*—Jaitpoorah bridge is nearly completed. Goonawad bridge foundations are being laid. Ootawad and Khokrah bridges' superstructure is being erected. The small culverts are in good progress and are nearly finished.

III.—*Metalling* for 1st coat collected at 1, 2, 3, 10 and 11 miles, 4, 5, 6 and 7 nearly finished, 8, 9, 10 are in progress.

This road will be opened to the public by the end of the rains.

A pucca well has been sunk at the 1st mile, the water is very good, and is a boon to travellers and also to the surrounding villages.

Three kutchha wells have been dug at the 6, 12 and 26 miles of the Neemuch Road.

MALWA AND GUZERAT ROAD.

40. *Traffic.*—The principal imports from Guzerat are tobacco, salt, and cocoanuts; and exports to Guzerat are grain and goor.

The number of carts passing from Malwa to Guzerat has been returned 772, and that from Guzerat to Malwa 3,354.

CHAPTER VII.

MILITARY

41 The only Government troops serving within the limits of this Agency is the Malwa Bheel Corps

The following table shows the strength and number of the sick during the year —

From 1st April 1874 to 31st March 1875, 12 months		
Daily average strength	{ Present	385
	{ Absent	212—597
Daily average sick		10 96
Remaining on 31st March 1874		12
Admitted during the year		346
Total treated		358
Discharged		349
Died in hospital		1
Died out of hospital		3
Remaining on 31st March 1875		8

CHAPTER VIII

SETTLEMENT OF BOUNDARY DISPUTES

42 Eight disputes have been settled, mapped, and demarcated, half were of very old standing There was no appeal

HOSPITALS AND DISPENSARIES

43 Dr Campbell has inspected all the Native State dispensaries under his supervision, and reports favorably of their condition

The following statement shows the number of patients admitted and treated in the Ali Rajpooor, Jabooah, and Bukhtghur dispensaries from 1st January to 31st December 1874 —

Name of Dispensary	Admissions	Number of deaths	Number of vaccination	Cost		
Ali Rajpooor	1,722	12		<i>Rs</i>	<i>a</i>	<i>p</i>
Jabooah	2,570	27	16	1,354	4	2
Bukhtghur	523	9	18	1,275	12	4
Total	4,815	48	3	693	15	1
			37	3,323	15	7

From enquiry made regarding the number of lepers in the States under this Agency, Returns have been received from the States below named :—

			Males.	Females.
Ali Rajpoor	...	...	74	90
Jabooah	...	...	92	27
Mutwarh	...	...	3	0
Dhar	...	...	316	102

The Return has not yet been received from Gwalior States.

44. *Archæology*.—The Raja of Dhar has brought to Dhar the third missing piece of the iron pillar found at Mandoo and mentioned in my Supplementary Report last year, and it is proposed to join the three pieces and erect them as a pillar in the middle of his palace square, but I fear the movement of such masses of metal is beyond his local mechanical power. The length of the pillar when rejoined will be 41 feet, only nine feet less than the Delhi "Lath."

45. Referring to letter from the Government of India, No. 1961G. of the 21st November 1870, the table below gives the information therein called for :—

Name of Jail.	Total number of prisoners during the year.	Total number of sick.	Number of deaths.	REMARKS.
Dhar	223	206	...	
Ali Rajpoor	55	38	...	
Jabooah	123	158	...	
Total ...	401	402	...	

46. In respect to Circular No. 1260P. of the 22nd January 1871, nothing has come to the notice of this Office showing that the crime therein referred to exists to any appreciable extent within the limits of the Bhopawur Agency.

Memorandum on the condition of the Malwa Bheel Corps for the year 1874-75

1 The total strength of all ranks on the 31st March 1875 was—

Bheels	361
Bhilalas	0
Naks	123
Bunjaras	9
Other castes	100
	<hr/>
Total	593
	<hr/>

2 Head quarters are at Sirdarpoor, and the following detachments aggregating 137 of all ranks are permanently absent —

1 Satpoorah Hills	59
2 Ali Rajpoor	53
3 Rutlam	15
4 Burwame	5
5 Dehree	5
	<hr/>
Total	137
	<hr/>

Numbers 3 and 5 are relieved monthly, the remaining detachments every six months

3 The regiment was armed with the short Enfield last rains, and we have nearly finished our rifle range, the labor has been supplied by the regiment. The rifle course can be carried on in the rains, the range being situated so as to be available in all weather. The non commissioned officers are now being instructed by the native officers who have been well taught at Mhow.

4 The Bheels have taken kindly to the improved weapon, and I think they will turn out good shots.

5 With the Agent to the Governor General's sanction the old club system of half mounting, by which every man paid 8 annas a month for his clothing, has been changed for the more modern plan of each man paying for what he gets.

6 The former plan was found to be a premium for slovenliness. The clean orderly sepoy was at a disadvantage. The new system began on 1st April.

7 Last year every man was supplied with a blanket in addition to his great coat. Dr Campbell informs me that the number of cases of disease of the respiratory organs has diminished during the year.

8 The men suffer less from sore feet since the shoe has been in use.

9 At the request of Government definite proposals for an increase to the pay of all ranks were submitted in 1873-74, but no orders have yet been received. I trust the proposal may be favorably considered—the present scale of pay was laid down when prices were much lower than now.

10. The regiment was inspected by the Major-General Commanding at Mhow in December 1874. He expressed his satisfaction at the improvement in the regiment.

11. *Conduct*.—The conduct of the men has been good.

12. *Health*.—The general health of the regiment has been good.

13. *Savings Bank*.—During the past year Rupees 5,406 have been deposited in the Savings Bank:—

		<i>Rs.</i>	<i>a.</i>	<i>p.</i>
Balance on 31st March 1874	...	2,660	0	0
Deposited during the year	...	5,406	0	0
		<hr/>		
	<i>Total</i>	...	8,066	0 0
Withdrawn...	...	...	4,405	10 0
			<hr/>	
Balance on 31st March 1875	...	3,660	6	0
			<hr/>	

14. *Band*.—An estimate for the cost of throwing a masonry dam across the Mhye has been submitted to Government; if sanctioned, the causeway will be a great boon to the sepoys, relieving them from a harassing work at the drill season, and also to the civil population and travellers.

15. *Regimental School*.—The average daily attendance was—

Oordoo School	...	...	...	8
Hindee „	...	...	...	72

16. Lieutenant W. Ashfield, the Adjutant, has continued to perform his duties most satisfactorily.

17. Surgeon-Major Campbell is most attentive in the discharge of his medical duties.

18. Last year we were supplied with six of the new field bugles in lieu of old instruments condemned. I purchased for each a chromatic attachment, solos, seconds, and bass. By the kindness of the Major-General Commanding, the Bugle Major and some of the buglers were instructed at Mbow. This nucleus of a band is a pleasant addition to the fifes and drums; and as the old bugles are condemned and the new field bugle supplied, the chromatic attachments will be procured, and next year I hope to have a complete bugle band of 16 performers.

SIRDARPOOR,	}	(Sd.)	W. KINCAID, <i>Lieut.-Col.</i> ,
<i>The 1st May 1875.</i>			<i>Bheel Agent and Commandant,</i> <i>Mhairwarra Bheel Corps.</i>

APPENDIX G.

No 203 dated Maunpoor Agency, 29th May 1875

From—CAPT G F BLOWERS Deputy Bheel Agent and Political Assistant,
Maunpoor

To—MAJOR GENL H D DALY, C.B., Agent, Govt -Genl. for Central India.

I HAVE the honor to submit the Annual Report of the Maunpoor Agency for the year 1874-75

I —MAUNPOOR PERGUNNAH (BRITISH)

	Rs	2 The revenue of this district
Land Revenue	4 361	is shewn in the margin
Sayer and miscellaneous	1 201	Forty one cultivators with 30
Ablaree	1 128	ploughs have settled in Maunpoor
Stamps	232	during the past year, and 198
Law and Justice	237	beegahs of new land have been
	<hr/>	brought under cultivation Seven
Total	7 159	kutchas and three masonry wells have
	<hr/>	

been constructed, of these only two have been made by Government, but it is to be hoped that Government will be in a position next year to afford the cultivators a large taccavee loan Native bankers are quite willing to advance money for irrigational purposes at a moderate rate of interest, provided that this office be authorized to recover the amounts This however has been considered an objectionable plan The rainfall, 35 inches, was unequally distributed, and the crops were not quite up to the average The experiment made in Guzerat tobacco seed Guzerat and Dhurwar cotton, cinchona, and coffee, were failures The outturn of the year's crop has been valued at Rupees 38,000 The population is close upon 4,000, and the cattle number 5,000

JUSTICE—CIVIL AND CRIMINAL

3 The usual returns have been submitted and call for no especial remark Rupees 714 worth of property was stolen, of which Rupees 45 4 were recovered Two cases of house breaking occurred at Maunpoor, supposed to have been committed by Kunjurs, who receive shelter in the neighbouring Native States A portion of Native territory might, with advantage, be placed under the management of a British officer, and these professional robbers be compelled to take to industrial pursuits

EDUCATION

4 One hundred and fifty three boys were in three Pergunnah Schools, and the daily average The total number of boys in the district is 859

11s in the
as 10

PUBLIC WORKS.

5. A moorum road has been constructed from the main road to Kolanie, at an expense of Rupees 473, and two wells have been dug at Kankeria and Burgaon.

MISCELLANEOUS.

6. *Dispensary*.—One thousand three hundred and sixty-one patients were treated, one-third of them being fever cases, 16 minor operations were performed, and 83 children vaccinated. Vaccination does not appear to be popular in this district.

Forests.—Great care is taken of the young teak trees, and none are allowed to be cut down. In seven of the hill villages they have been carefully numbered, but out of a total of 35,465 trees, only two could be found with a circumference of 30 inches. The “unjun” seed sown last year has not been a success.

Boundary disputes.—The boundary between Kalee Kurai (Maunpoor) and Dhall (Bhoomiah of Rajghur) was laid down and pillars erected. The southern portion of the pergunnah below the ghâts, which has lately been claimed by the Indore Durbar, was surveyed by their Chief Engineer, Mr. Carey, but up to the present the exact limits of their demand have not been submitted to this office.

Village Maps.—The lands of Rampoor, Kolanie, Ouleepoor, Maunpoor, Kankeria (in the plains), and Kuneyria, Naharkherie, Bheelance, Rai Koonda (in the hills), have been surveyed, and maps on a scale of four inches to a mile have been prepared.

7. *Local Funds*.—Subjoined is a statement of the Local Funds:—

Names of Funds.				Balance of last year.	Receipts of the present year.	Total.	Expenditure.	Balance at close of year.
Road Fund	..	...	...	123	199	322	145	177
Municipal Fund	...	...	...	88	150	238	106	132
School Fund	...	...	...	42	71	113	21	92
Total				253	420	673	272	401

II.—BURWANIE STATE.

JUDICIAL.

8. *Civil Justice*.—Three hundred and ninety-one cases were decided, and five are still pending.

Criminal Justice.—Two hundred and five persons were brought before the Courts, 93 were sentenced to punishment. There was one case of murder, two of highway robbery, and 19 of cattle-lifting.

Police.—Little or no improvement is observable in the police. The country is very hilly and difficult of access, and not much assistance is given by the Bheel Naiks.

REVENUE AND EXPENDITURE

9 The annual receipts were Rupees 87,693, being an increase of Rupees 2,488. The expenditure was Rupees 78,530 against Rupees 83,530 of 1873-74. The management of the State reflects credit on the Dewan, Khan Bahadoor Nujuff Khan.

EDUCATION

10 There are 11 schools for boys and two for girls, with an average daily attendance of 333 and 16, respectively. The school at Soorana has been closed, and two new ones for the children of Bunjaras have been started as an experimental measure at Mallen and Pansaymull in the hills.

The leading merchants take no interest in education, and object to paying a small educational fee.

PUBLIC WORKS

11 The communication across the River Nerbudda at Bheel Khera (a ford belonging to Burwanie) has been greatly improved by the construction of two trestle bridges, 1,154 feet in length, costing Rupees 1,530. It was opened in November, and the receipts for six months were Rupees 1,372, and by the commencement of the rains it is calculated that the bridge will have paid its working expenses and original cost of construction.

Nineteen thousand persons, 2,000 carts, and 5,500 cattle have passed over it.

Dhurumsalas have been constructed at Bheel Khera and at Rajghat, and at the latter place the ferry has received an addition of two boats. The comfort of travellers has been attended to, and traffic can now cross the river with ease and safety at all seasons of the year.

The ferry across the Nerbudda at Moheepoora, about 20 miles east of Burwanie, is also engaging the attention of the Dewan.

During the next year greater facilities for crossing will be offered to the local traffic.

The expenditure on public works in 1873-74 was about one fifth of the annual revenue of this State, but as this appeared to be rather too large a disbursement on one item, the amount was limited to Rupees 11,000.

MISCELLANEOUS

12 *Agriculture*—Owing to a lesser fall of rain than usual, and at unseasonable times, the outturn of crops was less than last year, and the value has been estimated to be at least Rupees 51,000 less than what it was in 1873-74.

One thousand seven hundred and twenty five beegahs of new land have been brought under the plough, 7,057 beegahs are under cotton cultivation, and only 851 under opium.

The cattle have increased by 8,441, bringing up the total value of the livestock to Rupees 12,81,965.

Population numbers 33,020, being an increase of 555 souls.

Three villages have been repopulated by 84 inhabitants.

In spite of all our efforts, very little progress has been made in cultivating the land of the deserted pergunnah of Julgoon. A large quantity of excellent land is lying waste for want of inhabitants, and probably the only plan now to adopt is to introduce colonists from the Upper Provinces of India. The Rana has an objection to advancing money for this purpose, but I am in hopes of overcoming this disinclination on his part.

Dispensary.—In the two dispensaries at Burwanie and Rajpoor, 3,198 patients were treated, and 264 children were vaccinated. The health of the district was good.

Forests.—This subject is receiving the anxious attention of the Dewan. Owing to there being no rubbee crops in the hills, the Rheels depend upon the jungles for their livelihood, and large quantities of wood are annually cut down. During my late tour through the western part of the hills scarcely a teak tree was to be seen. The last year's returns show that duty was paid upon 15,000 teak logs, in addition to 4,000 unjun and 2,000 logs of other kinds.

Fairs.—"Bavanguja" is the highest and steepest hill in the Burwanie districts, and is about four miles from the chief town. On its summit is a Jain temple, said to have been built some 700 years ago, and it is annually attended by the "Saravgees" for ten days in January. The ascent is being gradually improved by the Jains, and when completed it will cost not much less than Rupees 5,000. At the foot of the hill a "baoree" has been constructed, and a fair is held there in January. The daily attendance was about 3,000 persons.

Rana Juswant Sing, I am happy to say, accompanied me in my tour in the Julgoon Pergunnah and Sautpoora Hills. Owing to the want of roads and paths most of our marches had to be performed on foot. This is the first time since his accession to the "guddee" (18 years) that the Rana has travelled through the hills, and the results are an order to construct a road right through the western portion of the hills, so as to give greater facilities to traffic. At present the track runs either at the bottom of mountain torrents, or along the edge of steep precipices.

Enam villages.—There are four jaghir villages held by members of the Rana's family, two by Maharaja Holkar and Appa Bolia, and six by the inhabitants of the districts. In addition to the above, ten villages have been given away in "Dhurmadai" to Brahmins and Goosains. Nearly all (22) are situated in the plains, and, as usual in a Native State, they are the best villages in the district. None of these Jaghirdars pay any revenue or contribute to the executive expenses of the ilaqua. This state of matters ought, I consider, to be gradually altered, and a portion of the expenses in the Police, Educational, and Public Works Departments should be borne by the Jaghirdars.

III.—BHOOMIAH OF JAMNIA.

Under British management

13 The receipts and expenditure on this estate are as follows —

Receipts.	Amount.	Charges.	Amount.
	Rs.	ORDINARY	Rs.
Land Revenue	6,694	Land Revenue	1,083
Sayer	200	Public Works	1,750
Abkaree	112	Law and Justice	1,083
Customs	388	Political charges	1,263
Law and Justice	139	State charges	2,470
Miscellaneous including Tankas and Resaldars pay	5,823	Miscellaneous	707
			9,033
		EXTRAORDINARY	
		Instalment of Bhop- jee's debt	Rs. 2,000
		Tuckavee loans	1,256
			3,256
Total Balance	13,306 2,616	Total Balance	12,089 2,983
GRAND TOTAL	15,972	GRAND TOTAL	15,972

The receipts are Rupees 645 less than last year, caused by a mistake made by the Manager in the sale of the bheer of grass.

The expenditure is Rupees 581 less than usual.

Bhopjee's debt now stands at Rupees 3,000, which may be paid off next year should the season be a favorable one.

During the past year a tank capable of irrigating 150 beegahs has been constructed at Seelotia, as well as one "ooree" at Koonjrode. Since taking charge of the estate 11 baorees and wells have been constructed.

Owing to the bunniahs of Hasilpoor having declined to supply the cultivators with seed, &c., the Manager has been compelled to purchase a large quantity, and it is to be hoped that with care and caution the loans will be recovered and the cultivators be placed in a position not requiring aid from bunniahs.

Huree Sing, brother in law of the Bhoorniah, committed suicide last June.

One hundred and twelve children were vaccinated by the Hospital Assistant of this Agency.

14 The Bheels in this district as well below the Ghâts, have introduced a measure

The cattle have increased by 8,441, bringing up the total value of the livestock to Rupees 12,81,965.

Population numbers 33,020, being an increase of 555 souls.

Three villages have been repopulated by 84 inhabitants.

In spite of all our efforts, very little progress has been made in cultivating the land of the deserted pergunnah of Julgoon. A large quantity of excellent land is lying waste for want of inhabitants, and probably the only plan now to adopt is to introduce colonists from the Upper Provinces of India. The Rana has an objection to advancing money for this purpose, but I am in hopes of overcoming this disinclination on his part.

Dispensary.—In the two dispensaries at Burwanie and Rajpoor, 3,198 patients were treated, and 264 children were vaccinated. The health of the district was good.

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may prove of solid advantage to themselves as well as to the country. They are naturally great drunkards, and all their petty savings quickly find their way into the pockets of the avaricious Kullals. In order to obtain more liquor when their funds are exhausted, the Bheels invariably take to stealing, and all stolen property, as a rule, is passed through the hands of the Kullals, who are in fact receivers of stolen property.

Owing to a misunderstanding with the Kullals, the Bheels have combined together and have declined to purchase any liquor for their wedding feasts, &c., and in lieu they have all agreed to take goor, ghee, and sugar, &c.!! The movement is remarkable, and it is to be hoped a permanent one.

IV.—BHOOMIAHS.

15. The conduct of the four Bhoomiahs under this Agency has been good during the past year. Two boundary disputes between the Dhar Durbar and the Bhoomiah of Bharoorpoora and one between Indore and Koteeday were settled.

V.—BAGODE PERGUNNAH (DEWAS).

16. I have nothing in particular to report regarding this district. The revenue and charges are about the same as usual, and the balance of revenue Rupees 1,334-6-8 available for distribution to the two Durbars.

CIVIL AND CRIMINAL JUSTICE.

Forty-four suits were settled during the year, and 33 cases were brought before the Criminal Court; four cattle-lifting, one theft, and the remainder petty miscellaneous cases.

EDUCATION.

Sixteen boys are borne on the rolls. I visited the school (one only) in January last, and found that the school-master was inattentive to his work. He has been removed and another man has been appointed.

Boundary disputes.—No boundary disputes were taken up this year, owing to the Indore Durbar having failed to depute a representative.

MISCELLANEOUS.

The rainfall was 23 inches.

The crops (valued at Rupees 30,500) were slightly below the average.

Six kutchha wells were dug and two masonry ones are about to be constructed.

Owing to the unsatisfactory manner in which the Mahalkuree was performing his work, and to the numerous complaints against him, I was compelled to transfer him to another appointment. I visited the pergunnah during my tour, and urged on the various contractors the

necessity of constructing more wells In some of the villages I ascertained that the ryadars had leased them simply for grazing and not for agricultural purposes Steps are being taken to remedy this Exclusive of khasgee villages, only 3,743 beegabs of new land have been brought under cultivation within the last 20 years

VI—HOLKAR'S DISTRICTS

17 My tour extended through the districts under the Soobah of Nimar, and although the revenue in the villages which were formerly under the British Government, but now under the Indore Durbar, has been doubled, no complaints were received from the cultivators

VII—BOMBAY AND AGRA ROAD

18 *Traffic*—Merchandise valued at Rupees 1,03,38,913 passed along this road during the year under report Five thousand six hundred and forty five opium chests were forwarded by this route, being 1,762 more than the previous year

A pucca causeway is being constructed by the Public Works Department across the River Kurum close to Goojree, which will be of great convenience to travellers

Road and Opium dues—The receipts were Rupees 20,713 4, and the expenditure Rupees 2,460, balance available for distribution (46 shares) is Rupees 18,253-4

Road Local Funds show a balance of Rupees 423-4-5, the receipts, including balance on 31st March 1874, being Rupees 2,266-7-10, and charges Rupees 1,843 3-5

Justice—Nineteen civil suits were decided There were eight cases of theft, property stolen was valued at Rupees 2,199, only in one case was the property recovered (Rupees 150) One dacoity case occurred There are 19 police stations with 38 police constables spread over a distance of 102 miles The force, although small, exercises a healthy influence over the bad characters on the road For the convenience of travellers, there are 12 dhurmsilas and 20 masonry wells

Dispensary—Seven hundred and seventy six persons were treated at Khull, of these nearly one-half were suffering from fever. There were six deaths

BOUNDARY DISPUTES

19 During the early part of the season I was deputed to complete the unsettled boundary line between the Central India Agency and the frontier districts towards the west under the Bombay Government The boundaries of 28 villages were demarcated, and no appeals were received

APPENDIX H.

No. 134, dated Goona, 20th May 1875.

From—CAPTAIN H. BULLER, Political Assistant, Goona,

To—MAJOR-GENL. H. D. DALY, C.B., Agent, Govr.-Genl., Central India.

I HAVE the honor to submit the report of the districts under this

<i>Gwalior Territory.</i>	<i>Guaranteed Chiefs and</i>	Agency, and in so doing am glad to be able to state that the past year has been an unusually quiet one as regards crime, no serious case of dacoity, or any of violent bloodshed having come to my knowledge. This is satisfactory, and marks the tendency of
Four pergunnahs of the	<i>Mediatished Thakoors.</i>	
Bujrunghur Soubhat.	Ragooghur.	
Two pergunnahs of the	Gurrah.	
Isaghur Soubhat.	Badorah.	
Two pergunnahs of Miana	Umri.	
and Araor.	Parone.	
—	Sirsi.	
<i>Tonk Territory.</i>	Dhanoudah.	
Chuppra Pergunnah.	—	
<i>Jhalra Patin.</i>	<i>British Territory.</i>	
Shahabad Pergunnah.	Goona Cantonment.	

the present generation to settle quietly to cultivating and tilling their fields, rather than to leading a life of lawlessness and plunder, for which till but a few years ago the Chohan Rajpoots of the once powerful Kychee clan, descendants of the distinguished Lal Sing of Ragooghur, who owned the greater part of this district, were both feared and noted. Cattle-lifting, from various causes, hereditary custom, the great extent of uninhabited forest land, and more especially the peculiar interlacing of the territories belonging to the different Chiefs and petty Thakoors, must unavoidably for many years continue to be somewhat prevalent, but regarding this crime also all accounts tend to prove that a marked improvement has taken place during the last decade.

2. The general peace of the country combined with care in repressing every disposition of the Rajpoots and Bheels to a return to predatory habits has doubtless effected much towards this result, but the system now in force of obliging the Chiefs to compel restitution of property to the rightful owners, immediately a theft has been clearly proved, tends in a much greater degree towards the cessation of cattle-lifting than the infliction merely of a term of imprisonment, the usual punishment awarded in British territory.

3. Two cases of petty theft from the carts of the local bullock trains have occurred within the limits of this district. In one case the greater portion of the goods were recovered, and in the other negligence on the part of the cartmen and road police was apparent. The conduct of the latter has therefore been brought to the notice of the Durbar with a view to their being duly punished.

4 During the last few months the local authorities and police of the Gwalior territory on the Isaghur and Ranod frontier aided by parties of the 1st Central India Horse have been actively employed in endeavouring to trace the movements, and effect the capture, of the gang of outlaws under the leadership of Rundheer Sing, Puar Thakoor, a notorious dacoit, who has for the last three years frequented the districts on the borders of Lullutpoor, Tehree, and Gwalior. Since the deplorable failure of the attempted arrest of this gang at Tilha in March last the dacoits have for a time dispersed, and a clue to their movements is now difficult to be obtained. Informers through fear of retaliation are chary of coming forward, and from Marzowli on the south to Sipri on the north extends one continuous line of rocky hills, covered with dense thorny jungle, amongst which extend deep corries, affording both shelter and water, and which therefore naturally offer themselves as temporary retreats to such men as these notorious outlaws. His Highness the Maharaja Sindia has issued stringent orders to all his officials regarding the capture of these disturbers of the peace, and has further offered a reward for their apprehension. At my instigation a list of all the villages inhabited by Puar Thakoors is now being drawn up by the Soobahs of the different districts, and a careful watch will be kept on them by the local police.

5 *Judicial*—Only 26 criminal cases were brought before me during the year, of which three were pending at the close. Thirty eight civil suits were instituted, of which 37 were settled, and one still remains for adjustment. The punishment of whipping was only inflicted in one case of petty theft in the cantonment of Goona.

6 The health of the district has been good, no epidemic or severe attack of cholera having been brought to notice, small pox is however always to a certain extent prevalent throughout the district.

7 The winter crops, I regret to say, were much below the average, as the rains last September ceased suddenly, and much earlier than usual. Thus, taking the cultivators by surprise, necessitated a good deal of land remaining fallow, which otherwise would have been sown with wheat or other cereals. The extreme cold during the winter months, combined with hail and strong winds in February, also tended much to damage the crops. The cultivators estimated their receipts as a twelve anna crop of gram and wheat, and ten anna outturn only of opium. Prices of grain, however, should not be much affected, as the autumn or khureef crops were fairly gathered.

8 Land in this part of Central India compares most unfavourably with that of the rich gardens of Western Malwa. Here Rupee 1 to Rupees 15 is realized only for "mar" or unirrigated land, and from Rupees 5 to 6 for black loam watered from well or stream. With a little care and attention, however, the cost of sinking wells would amply repay the landowner or tenant Rupees 150 to Rupees 250, or an average of Rupees 200 suffices for the purpose of making a well, by which 10 beegahs of land could easily be irrigated,—an increase of Rupees 10 or 20 per cent additional revenue would be realized, and a judicious system of advances to zemindars for

NATIVE STATES.

9. *Gwalior Territory*.—The four pergunnahs of the Bujrunghur Soubhat have been during the last ten months fairly managed by Govind Rao Chimnaje, the Soobah of Bujrunghur, who was appointed to the charge of the district in September last. Since his arrival he has been much occupied in reviewing the assessment made by his predecessor, as that had not been accepted by a large portion of the villages. The settlement had therefore to be made *de novo*, and where the patels and headmen were still dissatisfied, the village area underwent careful measurement. The pergunnahs of Bujrunghur, Chachowra, and Ranod have now been resettled, and the Soobah hopes to have the remaining district—Pachar—completed before the commencement of the rains.

10. I was present for some days at the annual fair held at a shrine near the old town of Bujrunghur, which took place in October and extended over a period of 15 days. Several officers, the band, and a strong detachment of my corps also accompanied me. A gathering of nearly all the Chiefs of the district took place, and a pleasant week was thus spent. Tent pegging and other mounted sports were held, in which some of the Thakoors and district sowars joined.

The total amount of the goods brought to the fair exceeded in value Rupees 1,42,000, of this Rupees 80,300 worth of property was sold, and the remaining goods undisposed of at the fair eventually found a market in the neighbouring villages. The principle descriptions of articles sold were sugar, spices, gram, dyes, ghee, metals and iron-wares, cloths, both of English and country manufacture. The attendance was large, but not quite so good as in previous years, owing to the cultivators being busy tilling in consequence of the early cessation of the rains.

11. *Isaghur, Gwalior*.—The two northern pergunnahs of this Soobahship, *viz.*, Isaghur and Mugowlee, are under the management of Mada Rao Annand, who conducts affairs satisfactorily. The resettlement of these districts also is now in course of operation. There will, I am given to understand, be little alteration in the assessment beyond a somewhat enhanced demand from some of the most prosperous villages. The **ages**, generally speaking, however, are poor and scantily populated, **the** amount of arable land small in comparison with the great extent **orest** and jungle-covered hills.

12. *Miana and Araor*.—Affairs in this small jaghir are not satisfactorily conducted. The Kamashdar, Gunput Rao Balkishen, carried on his duties in a praiseworthy and straightforward manner, but on several occasions his conduct was unjustly called into question by one of the officials in Gwalior, and his authority unduly upset. On this account he some three months ago tendered his resignation, and the supervision of these pergunnahs is now being carried on by a subordinate totally unfitted for the position. I trust the Jaghirdar, Bappoo Sahib Judoon, a cousin of His Highness the Maharaja Sindia, will consider his true interests, and take either an early opportunity of reinstating the late Kamashdar with full powers, or appoint some other able and trustworthy man to the post of manager. The district is a rich one for its size, and with good management might be made to pay well.

13 *Tonk Territory, Chuppra Pergunnah*—The management of this district continues to be ably performed by Mahomed Aman Khan, the Amil. I visited it in December last, and spent many days in the neighbourhood.

14 The Kychees of Muksoodunghur have a customs post located at Chuppra, which is a continual source of annoyance to both parties. It would be well if some arrangement could be made between them, by which on payment of a certain sum to the Muksoodunghur authorities the withdrawal of the post could take place.

15 A fair was started last January in the neighbourhood, but the attendance, owing to its being the first year, was necessarily small. The Nawab has however sanctioned the issue of a proclamation remitting all duties on goods brought there during the next three years, which doubtless will prove a great inducement to the traders of the district to resort to the same.

16 *Shahabad, Jhalra Patun*—This pergunnah, which originally was seized by Zalim Sing, the powerful Prince of Kotah, now belongs to his descendant the courteous ruler of Patun, Raj Rana Phirtee Sing. The district is small, and brings but a poor revenue to its owner. Much of the country is rocky and covered with tree jungle, and a large portion of the best arable land is granted in jaghir for charitable purposes. The Dewan has lately been trying to introduce some scheme for irrigating the low lands by a canal cutting from the neighbouring river. I propose to visit this district next month accompanied by some of the Patun officials, when a trial line of levels will be run, and an approximate opinion passed as to the feasibility of the scheme.

GUARANTEED CHIEFS

17 *Ragooghur*—Raja Jeymundul Sing, Chohan Rajpoot, head of the once powerful Kychee clan, continues to administer this State fairly well. He is shrewd in the transaction of business, though dilatory at times in compliance with orders. His affairs however lately have not called for any interference on my part. He is now erecting a new masonry serai at the village of Bussoola on the Agra and Bombay Road, and a permanent guard house for the detachment of the Central India Horse located there. The want of the former during the rains was much felt, and its erection therefore will be a boon to travellers frequenting this line of road. The estimate for cost of construction amounts to Rupees 3,000.

18 *Gurrah*—This little Chiefship, belonging to Raja Bijah Sing, a Kychee Rajpoot, is well managed, and gives little or no trouble. The officials in the Raja's employ are respectable men, and consequently matters work smoothly. During the past winter the Chief has been residing at Jamnehr with a view of personally superintending the management of that pergunnah. With reference to that long-disputed boundary case between this State and Serong, which was finally settled and sanctioned last year, I regret to have to report, that though the Amil of Serong was nine months ago advised to complete without delay

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the erection of the necessary pillars, he has hitherto failed to do so, pending, as he states, receipt of necessary orders from Tonk. Further delay in this matter only necessitates useless expenditure in pay of chuprassies. I trust therefore the Nawab will now issue decisive orders to his subordinates on this subject.

19. *Badorah*.—Raja Mohun Sing, now somewhat advanced in years, has lately, considering the smallness of his revenue, acted very liberally in granting a donation of Rupees 2,000 to Sindia's charitable dispensary at Goona. This sum has been invested in the purchase of Government 4 per cent. paper, and the interest derivable therefrom will be annually expended in defraying the charges for food supplied to the poorer classes of patients admitted to this dispensary. This liberal grant of the Raja's may, I trust, be the means of inducing others to follow such a praiseworthy example. He has also granted the sum of Rupees 200 towards the improvement of the road and ghât at the shrine of Kedarnath. I visited the place during the time of the fairs this year, and found that some 6,000 people were collected. The arrangements concerning water were faulty, and the steps leading to the shrine, which at times were crowded with pilgrims, were narrow and dangerous: these defects will be now rectified to a certain extent, and prove, I trust, a boon to the pilgrims and villagers frequenting this place.

20. *Omri*.—Raja Mokum Sing and his son continue to live quietly and give no trouble. His revenue is small, villages sparsely populated, and no improvement, I fear, takes place in the State. The Chief, however, lives within his income and manages his tenants after a fashion. He is anxious to have his boundary with Gwalior State clearly demarcated. His request is a reasonable one, I have therefore forwarded it to Gwalior, and trust the Durbar will raise no objection to the same being carried out.

21. *Parone*.—Nothing of importance worth recording has occurred during the past year relative to this Chiefship. The adjustment of the Raja's claims regarding collection of certain taxes alluded to in my last report still remains, I regret to say, unsettled. The Durbar has also counter claims against him.

Raja Man Sing now proposes to proceed in person to Gwalior, and request an interview with His Highness the Maharaja. This will doubtless bring about a satisfactory settlement of affairs.

22. *Sirsi*.—Improvement in this petty State is slow in the extreme. The Manager, Chunderban, fails to exert himself in the affairs of his nephew as he should do, and rests satisfied if a result showing equilibrium of finances can be shown. The last year's accounts—showing an income of Rupees 2,828 and expenditure of Rupees 2,465—have lately been submitted for my inspection. A copy will be forwarded to the Soobah for the information of the Gwalior Durbar. The State formerly possessed 48 villages, of which only 30 can now be said to be inhabited. They are distributed as follows:—

- 21 in khalsa, producing an yearly income of about Rupees 1,860.
- 3 in charity granted to Brahmins and others.
- 6 in jaghir belonging to the uncles and near relatives of the young Dewan.

The Manager has been urged to extend the cultivation and diminish expenses during the current year, so as to create a surplus for well sinking and other permanent improvements to the land

No charge of theft or cattle lifting has been brought against this State during the last 12 months, and for this the Manager deserves credit, as formerly some of the inhabitants of this Chiefship were the most notorious robbers in the district

23 *Dhanonda*—This collection of villages, 32 in number, belong to Thakoor Burrut Sing Kychee, a man of indolent habits and weak character. Through carelessness he had become so involved that I was obliged last year to take his affairs in hand and make an arrangement with an influential banker for the gradual liquidation of his debts. He has now bound himself to a yearly expenditure of half his income, the other moiety to be paid to his creditors. If he keeps to this agreement, he will, in the course of a few years, be a free man, but his promises are as unstable as water, and little reliance, I fear, can be placed on his word

MISCELLANEOUS

24 *Goonā Cantonment*—Several acres of new land have been brought under cultivation. Two masonry and two kutchā wells have been sunk. The different roads have been kept in repair, and many young trees planted along them. A new Durbar house in the Cavalry Lines has been erected, and new quarters for the hospital establishment are in course of construction. These have been built under the immediate supervision of Captain Miller, who has kindly given much time and attention to the matter

25 *Dispensary*—The number of patients treated during the year amounted to 1,229, 26 deaths occurred, 1,105 vaccinations were performed in Goonā and the neighbouring villages, of these 832 proved to be successful. The hospital was maintained at a cost of Rupees 1,573. The Medical Officer much desires to see some improvements and additions made to the buildings which are urgently needed, the wards being small and inadequate for the number of patients who present themselves for treatment. I fully concur with Dr Ldis in the necessity for these alterations, and should be glad to see them carried out. Funds however are required, for which an application has recently been submitted to the Maharaja Sindia, which will, I have reason to hope, be met with His Highness' usual liberal spirit

26 *Postal*—Everything in connection with this department has worked satisfactorily. The usual Return is annexed showing receipts and issues of letters, &c

27 *Telegraph*—The section of the line within this district has been lately insulated under the immediate supervision of Mr Maclean, Assistant Superintendent, and all the posts and gear over hauled and put in thorough repair. This is a great advantage. The communication into Gwalior and Indore is now much improved to what it used to be, and interruptions in the current unfrequent.

28. *Education*.—A small regimental school is maintained in the Cavalry Lines, which is daily well attended, but no station or district school has, I am sorry to say, been yet started. Without funds it is hopeless to attempt any such institution.

29. *Military*.—The 1st Central India Horse has been located here during the past year, and has supplied detachments as usual for the different posts along the Agra and Bombay Road from Badora to Oden Kherri, a distance of over 1,000 miles; order and security have been maintained along the roads, and no serious attack on the mails reported. New guard-houses have been erected at Pachore (Nursinghur), Bunsoola (Rajooghur), and Rootial (Dhanonda) through the liberality of the Chiefs of these States. These were much needed as the horses in previous years had been picketed in thatched sheds, and thus constantly exposed to the risk of fire.

Several strong parties of the corps, as mentioned in the first portion of my report, have also been quartered in Tehree, Lullutpoor, and the neighbourhood of the Betwa River for the suppression of a notorious gang of dacoits.

A large number of remounts have been purchased during the year, principally from the fairs of Sonepoor, Butaisur, and Pokhur. Some small sized walers from Calcutta and a few Arabs from Bombay were also procured.

30. *Studs*.—The three stallions have been regularly kept in work during the winter and spring months, and 79 mares have been brought to them. The grand T. B. English horse "Thorndale" has been much and justly admired by the Zemindars and neighbouring Thakoors, but the stamp of mare in this district does not warrant my retaining his services longer here. I intend therefore to transfer him to Augur a few months hence. The old grey Arab "Dragon" is now past work, and should be replaced by a young and serviceable country bred.

31. The customary annual returns, 12 in number, are herewith submitted.
